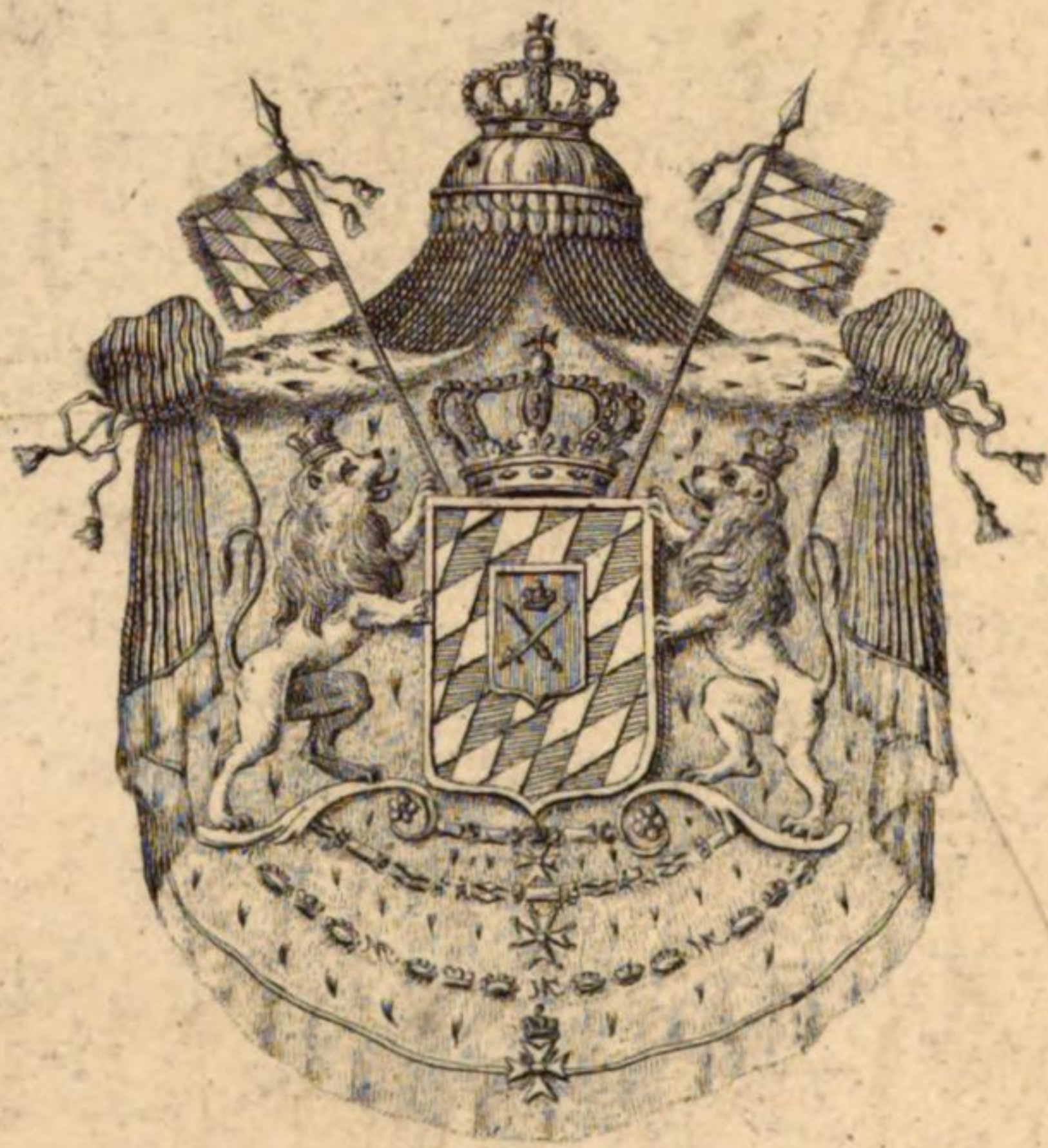






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Historical Collections.

The Second Part.

Containing the
PRINCIPAL MATTERS

Which happened from the
Dissolution of the PARLIAMENT,
On the 10th of March, 4 Car. I. 1628.

Until the Summoning of another Parliament,
which met at Westminster, April 13, 1640.

With an Account of the Proceedings of That PARLIAMENT;
and the Transactions and Affairs from that Time, until the
meeting of another PARLIAMENT, November the 3d
following. With some Remarkable Passages therein
during the first Six Months.

Impartially Related, and Disposed in ANNALS.

Setting forth only Matter of Fact in Order of Time,
Without Observation or Reflection.

By JOHN RUSHWORTH of *Lincolns-Inn*, Esq;

VOLUME the SECOND.

L O N D O N:

Printed for D. Browne, J. Walthoe, J. Knapton, R. Knaplock,
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S. MEAD.

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T H E P R E F A C E.



Y former Collections having bin found useful, and the intent of the Second Part being only to lengthen the same Clue, that may guide the Reader through the dark Labyrinth of more Years, there's the less need of an Introduction to this Book.

I seem to come to my Reader where I left him, and to give him my Hand to lead him into the further knowledge of what hath bin done in his own Country; I take it to be the great Business of every Man's Life to learn what the World is, and what hath bin done, and what is doing in it, and upon the Whole to judge what he ought to do; and it is but fit that of all Parts of the World, every Man should know his own Country best.

For that reason I have chosen to be a Collector of Matters of Fact, rather than to write in the usual form of Historians, to pretend to have seen into the dark Closets of States-Men and Church-Mens Minds, and to have viewed and measured the first Models by which they wrought. In such an Attempt I might have bin a false Guide to my Country-Men against my will, and had assumed to my self to be wiser than they.

But whilst I entertain the Reader only with a true and simple Narrative of what was done, and by whom, and when, every Man is left to his native freedom to judge of Men and Things, to find out the Causes by the Effects, to compare Transactions past, with such as now occur, to make his own Comment upon every Fact, and from such Text to read to himself his own improvement, Lectures of Prudence, Policy, and Morality.

The Reader should not have staid so many Years in the Dark, where I left him, at the Dissolution of the Parliament 4. Car. 1. if I could have bin sooner permitted to have sent him through the Press.

These further Lights evrey considering English-Man knows in general, that after that time there was a great change in the

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way of the English Government, no Parliament being held for twelve Years and upwards; one only met without making a Session by passing an Act, and was Dissolved within three weeks.

I suppose most Men cannot but wish to know in particular the Arts and Methods used in Government in such a long suspension of the Exercise of the Supream Legislative Power, so that neither the King could have any Assistance from the People, to support the Honour, Strength, and Interest of the Nation; nor the People any Relief of their pressing Grievances, or any Provisions made by Law for the Security and Advancement of their common Welfare.

I hope every studious Reader may reasonably satisfy himself by the following Papers, of the true State of the Government and Kingdom, during the discontinuance of Parliament, whilst I keep my self close to my Province, of relating only in my Annals the several Proclamations, Commissions, Instructions, Orders, or Acts of Council-Table, Patents and Grants which then passed; together with the prosecution of the same, by Judgments, Decrees, Orders, and other Proceedings of the Courts of Star-Chamber, High-Commission; of the President and Council of the North, and several other Courts.

It will be the Reader's part to call all into Judgment, to Try, Condemn, or Acquit them, according to their several Merits; it belongs to him, by forming Inductions from the particular Facts to enable himself to understand the Designs then managed, and the Methods propounded to effect them.

The Reader may with ease, by Reflections made upon these Annals, inform himself by whose Counsels the King steered in his Government during the long Intermission of Parliaments; What Means and Methods were designed, practised, or attempted to levy Mony for support of the King in his way of Government without Parliaments; What unusual Powers of Judicatory were assumed and exercised in the menage of the Government during that time; What Principles and Maxims in Law were endeavoured to be established; What Doctrine and Discipline were obtruded upon the Church of England; And what were the Effects and Consequences, not only in England, but also in Scotland and Ireland, of the manner of governing whilst Parliaments were discontinued.

Perhaps these Collections may be read by most occasionally; sometimes the Reader may desire to be satisfied what was done upon some Emergency or notable Accident; and sometimes to see a particular

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particular Argument in Law, or a Decision of some memorable Case, or the Transactions of some one Year, (few having leisure so deliberately to read all these Annals, as to observe nicely whose hands were most constantly upon the Helm of the Kingdom, from 1629 to 1640, or by what Rules they steered, either in the Matters of State, or the Distribution of Justice, or the Affairs of the Church); and for that reason it may be an ease to the Reader to know before-hand the Persons that were upon the Stage, or in the Retiring Room, in every Scene of the whole Interval of Parliament, and the several Parts they acted.

The principal Conduct of all Affairs about the Government, was committed by the King to three of his Council, Dr. William Laud Arch-Bishop of Canterbury; James Marquess of Hamilton, after Duke Hamilton; and Sir Thomas Wentworth, after Baron, then Vicount, and lastly Earl of Strafford; many other noble Personages were of the King's Council, but the Power and Authority rested in these, whose Advices and Resolutions in all the Matters of State and highest Moment [by their constant correspondence when they were far distant each from other] were brought to the Council Table for Countenance and Execution.

These three great Ministers of State had each his more peculiar Province, yet they had all an influence on the whole Government. The Earl of Strafford resided much in Ireland, and was busie to execute there the Advices which he had given his Master at the Council-Table, and such mutual Advices as were constantly given and received between the Arch-Bishop and him. The Marquess of Hamilton had the Conduct of the Scottish Affairs, yet with the concurrence of the Arch-Bishop, who presided in all the most secret Councils concerning all the three Kingdoms; and the Addresses in Matters Temporal as well as Spiritual, were made through him to the King by the most Noble Personages. This Triumvirate was solely depended upon for Advice in the greatest Exigencies of the Crown. It appears by the Arch-Bishop's own Diary, that after ten Years discontinuance of Parliaments, the Advice was from these three great Men to the King to call a Parliament; the Arch-Bishop entred it upon the 5th of December 1639, thus:

The King this day declared his Resolution for a Parliament, in case of the Scottish Rebellion; and the first Movers of it were, the Lord Deputy of Ireland, the Marquess of Hamilton, and my Self; and the Resolution voted at the Board to Assist the King in extraordinary Ways, if the Parlia-

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ment should prove peevish and refuse, &c. *And before the Council did then rise, it was declared the Parliament was to meet the 13th of April, 1640.*

The Reader will need no fuller satisfaction of the influence which this Arch-Bishop had upon the King, than his own Diary; and for that reason I have inserted it in the beginning of several Years in these Annals: Not knowing how to relate more impartially, or to evince more clearly the truth of the Matter of Fact, which that Diary contains, especially in some particulars, which would have bin of very doubtful credit, had they dropt from any Pen but the Arch-Bishop's own.

I shall instance only in one Fact entred in this Diary; the Offer made to him by a Messenger from the Pope of a Cardinal's Cap, and his Answer, That somewhat dwelt within him which would not suffer that, until Rome were otherwise than it is. Few would either have believed that the Papists Designs of subverting the Protestant Religion were advanced in those days to that height of Hope, as to attempt the Metropolitan of England to accept of such a Preferment from Rome, or that so great a Counsellor and Minister of State to the King should suffer such a bold Attempt against his Crown and Dignity, and such an Underminer of the Protestant Religion to pass away unquestioned, to prosecute his Treasonable Designs, of Introducing a Foreign Power and Religion.

I censure not that Great Prelate for what he did, or omitted; but I give the Reader the reason of my inserting his Diary, being willing to put it out of doubt who were the King's most confiding Cabinet Counsellors in the Years whereof these Annals give an Account.

After the Dissolution of that Parliament, wherein the Petition of Right was granted, a Proclamation came forth, forbidding the People to raise or nourish Reports or false Rumours of Parliament; and it seems (by what followed) the Kingdom for twelve Years together was governed without a Parliament.

One of the first Fruits of those Advices to the King, was to provide well for the Support of his Crown, that there might be sufficient Supplies of Monies to answer all its Wants during the Intermission of Parliaments, and there wanted not those that had variety of Inventions to draw Mony from the People, whilst none could be charged upon them in the Ancient Legal Course.

The first Advice that was given, was not only to continue Tunnage and Poundage without any consent of Parliament, but also

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to inhance the Book of Rates upon several Merchants Goods, and the Collections of such Rates to be enforced out of the Course of ordinary Courts of Justice.

The next Design for Mony was, by Proclamation to revive an obsolete Law about Knighthood, under colour whereof Summons were sent throughout the Kingdom to every Man possessed for three Years of 40 l. per Annum, who did not appear before the King at his Coronation to be made a Knight, to submit to such Fines as they could compound for; and James Maleverer of Arncliffe, in the County of York, Esq; put himself upon the Judgment of the Court of Exchequer, what Fine they should think fit to impose upon him: but the Court doubting the Law would not bear them out, refused that Regular Course of imposing a Fine, and put the Party submitting, to go and compound with Commissioners in the County, contrary to the intent of the Law.

Another Advice to advance the King's Revenue, was, To grant Patents under the Great Seal; by which Monopolies were created, in a manner, of all sorts of Commodities; as Soap, Salt, Wine, Leather, Sea-Cole, Cards, Pins, even to the sole gathering of Rags; which Projects were countenanced with the name of Incorporations. And the Titles of all Proclamations countenancing the new Corporations, as well as Proclamations of Matters of State, are put in the end of every Year, in order of Time, in the Body of the Collections, and some in the Appendix.

Another Advice was given, to raise a Revenue for the King, by granting of Commissions under the Great Seal for Offenders to Compound; and the better to effect the same, some Examples were made by Sentence in the High Court of Star-Chamber against several Persons, to pay great Fines, as for Depopulations, Nuisances in Building between High and Low-Water Mark, for pretended Encroachments upon the Forests, with other things of that nature, and accordingly Commissions were issued out, and Offenders in that kind did compound, which brought in a considerable Revenue.

But of all the Inventions for raising of Monies during the Intermission of Parliaments, the Ship-Writs (as they were called) for imposing Ships and Furniture upon every part of the Kingdom, upon the Inland as well as upon the Port-Towns, and taxing Mony for the same at the King's Pleasure, by his Writ expressed; and that as often, and in as great proportion as his Majesty shall judge needful, was the greatest dissatisfaction to many of the Nobility and Gentry; they alledging that way of Supply included in it self a claim of the King's unto the whole Estates of the
King-

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Kingdom, when he would say he wanted Monies upon that occasion, the Judges having then declared the King to be the sole Judge of Danger.

The Disputes and Contests that arose from this way of levying Monies, will be found in the following Annals; and the Author hath related that great and memorable Case of Ship-Mony more fully than others, because there is so much excellent Learning shewed in the Arguments made therein before all the Judges of England in the Exchequer Chamber, which were never yet published in print: therefore he hath selected out the Arguments made by two of the Counsel, viz. Oliver St. John of Lincolns-Inn Esq; his Argument for Mr. Hambden, and Sir John Banks Kt. the King's Attorney General his Argument for the King; both which, and all the Arguments of the rest of the Counsels as also of the twelve Judges, the Author took with his own Pen verbatim (as near as he could) except sometimes through defect in hearing, by some accidental interruption, a Word, or the exact time of a Record, or other Passage might happen to be omitted.

In these Arguments the young Students of the Law will find Matters of great Antiquity before the Conquest, mentioned as pertinent to this Case, out of Ancient Authorities and Historians in the time of the Saxons and Danes, made use of as introductive to this Case of Ship-Mony. And such mention is also made of Matters of State, as comes near Arcana Regni, of a higher nature than the Arguments in any other known Case, the highest Prerogative of the King in Cases of the greatest Exigency being there brought into debate.

And that the Reader may more clearly judge of the Consequence of the Case, the Author hath annexed an Account of what Mony was levied out of every County by virtue of this Tax, the same amounting to about 200000 l. per Annum for five Years, as may appear by the inserted Account of Sir William Russel then Treasurer of the Navy.

The Reader will also find in these Collections, a large Account of the Proceedings in the Court of Star-Chamber for ten Years; some Cases are briefly reported, others more considerable are set down at large; with some Speeches made by the Lords when they gave Sentence in open Court, as in the Case of William Prinn Esq; when he lost his Ears the second time; and in the Case of the Bishop of Lincoln, when he was twice sentenced in that Court, and imprisoned in the Tower; and in divers other Remarkable Cases.

Likewise

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Likewise the Reader will find a particular and large Account of the Transactions of Affairs in Scotland, when in the Year 1637 the first Spark of Discontent there brake out; and when Marquess Hamilton, the King's High Commissioner, the next Year (1638) was sent down to compose the Differences and Commotions in that Kingdom, but without effect. And the next Year after (1639) when the King marched with an Army against the Scots, and encamped near Berwick, where the Author then was when a Pacification was concluded; as likewise at the Fight at Newborne; the Great Council at York, and Treaty at Rippon, Anno 1640. At all which Places the Author was present, and it's hoped the Reader will find much satisfaction in a punctual Account of the Transaction of Affairs in those Places.

And as for a clear Account of the Proceedings in Scotland during the said Years, the Author is the better enabled to give the same, by the help of that exact History of the Lives of the two Duke Hamiltons, written by that Learned Divine Dr. Gilbert Burnet; whose Example, in setting down Vouchers for what he doth write, is a worthy and good Example for any Historian to follow.

And another help to the Author was, the Records of Scotland, whilst they remained here, which after the taking of Sterling-Castle were brought from thence to be kept in the Tower of London.

The Author also endeavoured to get what other Informations he could, by Proclamations, Declarations, and Protestations, pro and con, concerning those Commotions in Scotland; all which Matters, and also other things, throughout the whole Collections, the Author sets down for most part at large, because he would not confine the Reader to his Abstract, nor limit him to minutes of material Evidences of Truth, except it be in some less considerable Matters, and hopes the Reader will pardon him for so doing.

Another thing somewhat considerable, which the Author doth mention, (with which some Readers, martially inclin'd, will not be displeased) is an account of Actions of War, and Military Proceedings in Germany, wherein the Subjects of Great Britain were concerned, upon the sending over of six thousand Men, under the Conduct of Marquess Hamilton, in the Year 1631, to assist the King of Sweden, in order to the Recovery of the Palatinate, &c. And also of the Proceedings of the Ambassadors sent upon Treaties with the Emperor, and afterwards with the King of Sweden, about the Restitution of the Prince Elector Palatine

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Palatine to his Patrimony. Giving likewise a brief Account of some Battels, and other notable Encounters and Engagements, wherein the English and Scottish Subjects of the King of Great Britain were concerned; with a List of the Commanders Names who went with those 6000 Men in that Expedition.

The Author hath adventured to go further in these Collections in point of Time, than he intended when he came first to the Press, purposing then only to proceed during twelve Years and odd months Interval of Parliament, (except the Parliament that met the 13th of April 1640, which continued sitting three weeks, of which the Author gives a large Account) and to end the third of November 1640, when another Parliament met; but finding the Passages at the Great Council at York, and Treaty at Rippon, did come so near the time of the meeting of that Parliament, as that the King and that Great Council arrived at London but two or three days before the Parliament met: And forasmuch as the King in his Speech immediately after, on Novemb. 3. did take notice of the Proceedings of the said Great Council and Treaty, the Author hath thought fit to give an Account of some Remarkable Passages during the first six months of that Parliament, and of the Speeches of some eminent Members thereof, who spake their apprehension of the then State of three Kingdoms: And the Reader I hope will be the better informed, because the Speeches are (for the most part) of those Members who were with the King at Oxford, and adhered to His Cause during the time of the late Unhappy War.

Lastly, The Author in regard he was enforced to a more than ordinary haste, in sending forth this his Second Part of Collections, desires to be excused, if any thing be misplaced out of Order of Time, or any other defect in marshaling of his Materials. And for the Errors of the Press, he intreats a favourable Censure, because the Printers also laboured under the same disadvantage with himself upon the account of Expedition.

The Author had many other considerable Matters to impart during the said first six months, but a great part thereof is usefully and pertinently inserted in the Trial of Thomas Earl of Strafford, and will be shortly published by the Author of these Collections; which being done, if he be encouraged to proceed with his Third Part, he intends the same shall commence where his Second Part endeth, rendring an Account, from that time, of Passages Civil and Military until the month of April, 1653, when that Parliament, which in process of time contracted the Name of the Long Parliament, was broken up.

REMAINS

R E M A I N S

O F

Historical Collections.

For the Year 1629.

5 Caroli.



IN the Preface to this second Part, the Author acquaints the Reader how it happened that these following Additions, which come under the Title of *Remains*, were omitted in the first Part of *Historical Collections*, and not then inserted in the Year 1629, as was intended.

Among the things (so omitted) no mention was made of an Expression in the Diary of Dr. *William Laud*, then Bishop of *London*, of which the subsequent Parliament took special notice, (*viz.*) *That that Parliament which was Dissolved (the King being present) upon the 10th of March, 4 Car. 1. had laboured his Ruin.* And probably the reason for that *Memento* might be, because the House of Commons in their *Remonstrance* in that Parliament had reflected upon that Bishop. Unto which *Remonstrance* an Answer was given in the King's Name, (but omitted also in the First Part) penned by the said Bishop of *London*, being of his own hand-writing, produced afterwards at his Trial, and was to this effect.

‘WE are not bound (saith his Majesty) to give an account of our Actions to any but to God only; yet out of the Honour and Integrity of our Grace, the Love and Care of our People, the great and hearty desire we have to take off all Fears and Jealousies from our Loyal and Loving Subjects, We have thought fit to declare these Reasons following, why we have called in this Remonstrance, which yet we presume and constantly believe was framed and delivered up unto us with good Intentions, tho’ by a misguided Zeal.

The King's
Answer to the
Commons
Remonstrance.

‘For first, That Remonstrance begins at Religion, and fears innovation of it by Popery: But we would have our Subjects of all sorts to call to mind what Difficulties and Dangers we endured, not many years since, for Religion's sake; that we are the same still, and our Holy Religion is as precious to us, as it is or can be to any of them, and we will no more admit Innovation therein, than they that think they have done well in fearing it so much.

‘Tis true, that all Effects expected have not followed upon the Petition delivered at *Oxford*, but we are in least fault; for that Supply being not afforded us, disabled us to execute all that was desired, and caused the stay of those legal Proceedings which have helped to swell up this *Remonstrance*; yet let all the Counties of *England* be examined, and *London* and the Suburbs with them, neither is there such a noted increase of Papists, nor such cause of fear as is made;

An. 1629.

‘nor hath any amounted to such an odious tolerating as is charged upon it, nor near any such.

‘For that Commission so much complain’d of, both the Matter and Intent of it are utterly mistaken; for it doth not dispense with any Penalty, or any course to be taken with any Papists for the exercise of their Religion; no, nor with the pecuniary Mule, or not-Conformity to ours. It was advised, for the increase of our Profit, and the returning of that into our Purse: which abuse, or connivance of Inferior Ministers, might, perhaps, divert another way: if that, or any other shall be abused in the Execution, we will be ready to punish upon any just Complaint.

‘The next Fear is, the daily growth and spreading of the *Arminian Faction*, call’d, a cunning way to bring in *Popery*; but we hold this Charge as great a wrong to our Self and our Government, as the former; for our People must not be taught by a *Parliament Remonstrance*, or any other way, That we are so ignorant of Truth, or so careless of the profession of it, that any Opinion, or Faction, or whatsoever it be call’d, should thrust it self so far, and so fast into our Kingdoms, without our knowledge of it. This is a mere Dream of them that make, and would make our Loyal and Loving People think we sleep the while.

Dr. Laud Bp.
of London, and
Dr. Neale Bp.
of Winchester.

‘In this Charge there is great wrong done to two Eminent Prelates that attend our Person: for they are accus’d without producing any the least shew, or shadow of proof against them; and should they, or any other, attempt Innovation of Religion, either by that open, or any cunning way, we should quickly take other order with them, and not stay for your *Remonstrance*.

‘To help on this, our People are made believe, there is a Restraint of Books Orthodoxal: but we are sure, since the last Parliament began, some, whom the *Remonstrance* calls Orthodox, have assumed to themselves an unsufferable liberty in Printing. Our Proclamation commanded a Restraint on *both sides*, till the Passions of Men might subside and calm: And had this bin obey’d, as it ought, we had not now bin tossed in this Tempest; and for any distressing or discountenancing of Good Preachers, we know there is none, if they be (as they are called) Good, but our good People shall never want that Spiritual Comfort which is due unto them. And, for the Preferments which we bestow, we have ever made it our great care to give them, as Rewards of Desert and Pains: But as the Preferments are ours, so will we be Judge of the Desert our Self, and not to be taught by a *Remonstrance*.

Ireland.

‘For *Ireland*, We think, in case of Religion, it is not worse than Queen *Elizabeth* left it; and for other Affairs, it is as good as we found it, nay, perhaps better: And we take it for a great disparagement of our Government, that it should be voiced, That New Monasteries, Nunneries, and other Superstitious Houses are erected and replenished in *Dublin*, and other great Towns of that our Kingdom: for we assure our Self, our Deputy, and Council there, will not suffer God and our Government so to be dishonoured, but we should have had some account of it from them; and we may not endure to have our good People thus misled with Shews.

‘There is likewise somewhat considerable in the Time when these Practices

5 Caroli.

‘practices to undermine true Religion in our Kingdom are set on Foot.
 ‘The Remonstrance tells us it is now, when Religion is oppos’d by
 ‘open Force in all other Parts: but We must tell Our People, there
 ‘are no undermining practices at Home against it, if They practise not
 ‘against it that seem most to labour for it. For while Religion seems
 ‘to be contended for in such a Factionous way (which cannot be God’s
 ‘way) the heat of that doth often melt away that, which it labours
 ‘earnestly (but perhaps not wisely) to preserve. And, for God’s
 ‘Judgments which We and our People have felt, and have cause to
 ‘fear, We shall prevent them best by a true and religious Remon-
 ‘strance of the amendment of our Lives, &c.

Upon the Dissolution of the last Parliament, the People were highly discontented, and uttered displeasing Speeches and Discourses; That if a Parliament was not presently called again, all things would be unsettled and out of Order, and Trading would fail, and Contests would arise about Tunnage and Poundage, &c.

Whereupon his Majesty put forth a Proclamation, on the 27th of *March*, for suppressing of false Rumors touching Parliaments, to this Effect.

‘That notwithstanding his Majesties late Declaration for satisfying of
 ‘the Minds and Affections of his loving Subjects, some ill disposed
 ‘Persons do spread false and pernicious Rumors abroad, as if the scan-
 ‘dalous and seditious Proposition in the House of Commons, tumultu-
 ‘ously taken up by some few, after that by his Majesties Royal Au-
 ‘thority he had commanded their Adjournment, had been the Vote of
 ‘the whole House, whereas the contrary is the Truth: which Propo-
 ‘sition was a thing of a most wicked and dangerous Consequence to
 ‘the good estate of this Kingdom, and it appeareth to be so by those
 ‘impressions which this false Rumor hath made in Mens Minds, where-
 ‘by, out of causeless Fears, the Trade of the Kingdom is disturbed,
 ‘and Merchants discouraged to continue their wonted Traffique.
 ‘His Majesty hath thought it expedient, not only to manifest the Truth
 ‘thereof, but to make known his Royal Pleasure; that those who
 ‘raise, or nourish false Reports, shall be severely punished; and such
 ‘as chearfully go on with their Trades, have all good encouragement;
 ‘not purposing to overcharge his Subjects by any new Burthens;
 ‘but to satisfy himself with those Duties that were received by the
 ‘King his Father of Blessed Memory, which His now Majesty neither
 ‘can, nor will dispense withal. And *Whereas*, for several ill ends, the
 ‘calling again of a Parliament is divulged, howsoever his Majesty hath
 ‘shewed by his frequent meeting with his People, his Love to the use
 ‘of Parliaments; Yet the late abuse having, for the present, driven
 ‘his Majesty unwillingly out of that Course: He shall account it pre-
 ‘sumption for any to prescribe any time to his Majesty for Parliaments;
 ‘the Calling, Continuing, and Dissolving of which is always in the
 ‘Kings own Power. And his Majesty shall be more inclineable to meet
 ‘in Parliament again, when his People shall see more clearly into his
 ‘Intents and Actions; when such as have bred this interruption shall
 ‘receive their condign Punishment, and those who are misled by them,
 ‘and such ill Reports as are raised upon this occasion, shall come to a
 ‘better understanding of his Majesty and Themselves.

Against false
 Rumors of
 Parliament.

An. 1629.

Duke of Rohan,
March 12.

1629.

The Duke of Rohan, the Head of the Protestant Party of the Reformed Religion in France, (not knowing that the King of England had dissolved the Parliament) implored his further Aid, on the behalf of the Reformed Churches in France, in a Letter dated the 12th of March 1628, being two days after the Parliament was dissolved; and was to this effect.

S I R,

The Duke of
Rohan's Letter
to the King.

THE deplorable accident of the loss of Rochel, which God hath pleased to permit to humble us under his hand, hath redoubled, in the Spirit of our Enemies, the passion which they have for our Ruine; and the hopes to attain thereunto: but it hath not taken away from those Churches of the Provinces that Courage, or Affection of opposing, by a just and vigorous defence, to their unjust Designs. This is that which hath made them take up a Resolution, and assemble themselves together, and to stand in a Body amidst these Commotions, to assist me with their good Counsel, and provide with me means for their Deliverance. And because the most powerful Means, which God hath raised them upon Earth, is the Aid which our Churches have received, and do expect from your Majesty, the general Assembly have desired, That my Letter (which solely hitherto represented unto your Majesty the Interest of the publick Cause) might be joined to the most humble Supplication, which they represent. I do it, Sir, with so much the more Affection, because I am Witness, that this poor People breath after your Assistance, having once laid down their Arms, which the Oppression of the Enemy made so necessary: and because they knew it was your desire, took them up again, when they learned that your Majesty obliged them to it by your Counsel, and by your Promises. Upon this sole Assurance, they have exposed themselves to all Dangers, overcome all Obstacles, consumed their Goods, and are still ready to spill their Blood, even unto the last drop. Your good Will they have found more dear than their Lives: and, notwithstanding the Promises and Menaces, which their Enemies have made use of to move them, they have not been induced to make any Breach of those Oaths, by which they were tied never to hearken to any Treaty, but with your Majesties Consent. All the Churches of this Kingdom, which are linked together to an unexampled fidelity, are glorious Objects of your Charity and Power. You are (Sir) Defender of that Faith, which they profess. Do not suffer it to be unjustly oppressed: You have stirred up their Affections by your Royal Promises, and those sacred Words, That your Majesty would employ all the Power of your Kingdoms to sheild those Churches from the ruine that threatned them, and have been, next to the favour of God, the only Foundation of their Hopes; they have also thought it to be one of the highest Crimes they could commit, to doubt of the performance thereof. If the beginning of their Miseries hath moved your Compassion, this sad subject hath increased upon them with so much Violence, that there is nothing, but your Assistance can prevent their absolute Destruction: for at this day the greatest Misdemeanors which our Enemies accuse us of, and publish, that it cannot be expiated, but by our Blood, is the imploring and hoping for your Assistance. Our Goods for this are confiscated and destroyed; our Farms desolate and burned to Ashes; our Heads exposed to the Block; our Families banished; our Temples demolished. And every where, where the cruelty of our heinous Enemies can extend, Men and Women are beaten



beaten to Mass with Staves. In short, the Horror and Persecution we endure is so great, that our Words are too weak to express them.

Furthermore, We see, even at our Doors, the powerful Armies, which only wait the time to destroy those retiring places that are left, and after that banish the exercise of Religion, and massacre the Faithful throughout the Kingdom. Hereupon, if I should intreat your Majesty not to Abandon us; I fear by these Words to offend a great King, so powerful, and so faithful: but I will take upon me the boldness, by reason of our pressing necessities, to supplicate your ready Assistance, to hinder our falling under the strength of our Enemies. Your Majesty need not search elsewhere, but in your own profound Wisdom and Experience, to render your succor redoubtable to those that despise it, and advantageous to those People that expect it. By this means you will gain the greatest Glory that can be desired; you will free from Fire and Sword 300000 Families, which pray to God continually for your Prosperity; will preserve a People, whom God hath purchased by his Blood, and that have kept their Faith towards God and Man amidst the greatest Distractions and cruel Sufferings; will place the Fidelity of your Word, the Reputation of your State, and your Armies in a point worthy of so much Grandeur, and in checking the boldness of those, who undertake to blast it daily with unworthy Reproaches, will add to your Title that of the Restorer of the most innocent People in the World, and the most inhumanely persecuted.

As to my own Concerns, Sir, I make no mention to your Majesty of my Interest. I might (having the Honour to be what I am) do it without blame, as to outward appearance: but it is so long since I had consecrated them to the use of the Publick; that I shall always esteem my condition happy enough, provided the Church be not miserable; and that I may have this advantage, to be known by such occasions which your Majesty doth not disprove of, that I am,

At Rohan the 12th
of March, 1629.

Your Majesties Most Humble,
and most Obedient Servant.

HENRY of ROHAN.

Deputies came also from the Reformed Churches, and gave the King to understand, that they were informed a Treaty of Peace was intended to be propounded, between the two Crowns of England and France, by some Ministers of Forreign Princes. That in case the Treaty do succeed, they humbly pray his Majesty of Great Britain, to insist upon the Capitulation made upon his Mediation, and for which he passed his Word, that the Reformed Churches should perform on their parts, which they kept inviolably, till there were Forces placed, and kept in Forts against them, contrary to the Capitulation; and so, in their own Defence, were necessitated to take up Arms.

An Address
from the De-
puties of the
Reformed
Churches.

To the Duke of Rohan's Letter, His Majesty returned an Answer, which was to this effect.

‘That his Majesty understands there is an Intention, by the Mediation
‘of some Forreign Princes, to propose a Peace between the two
‘Crowns of England and France, which probably he may incline unto;
‘and

The Effect of
the King's An-
swer to the D.
of Rohan.

An. 1629.



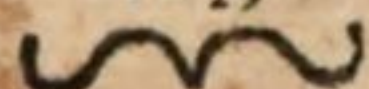
and therefore adviseth the said *Duke*, and those of the *Reformed Religion*, timely to apply themselves to the *French King*, and to get as advantageous Terms for himself, and those engaged with him, as he could procure: The King further informing the Duke, that he was constrained to dissolve the Parliament, which he had lately reassembled, from whom he expected further Supplies of Mony; but failing thereof, he was not in a condition to contribute such further Aid and Assistance, either by Mony or Arms, as the Duke of *Roban*, and those that adhered unto him, might expect, and their present Necessities require; His Majesty expressing his sorrow, that the Condition of his Affairs was such, that he could not answer his and their Expectation.

The Duke of
Roban seeks to
the French
King for a
Peace.

The Duke of *Roban*, upon the aforementioned advice of the King of *England*, forthwith made Address to the *French King*, in order to a Peace, on behalf of himself, *De Soubieze*, and others of the Reformed Religion engaged with them: To which Address, after some indisposition thereunto in the *French King*, He at last agreed upon Articles, and Hostages were given, and a Peace concluded accordingly, and performed on both sides; and an Act of Parliament passed in *France* to confirm the Articles of Peace so agreed upon.

March 24.

1623.



A Petition of
the distressed
Rochel Cap-
tains.

AT this time there was delivered to the Lords of the Privy Council, an humble Petition of *John Talbott*, *Edward Porter*, *Henry Tellier*, and *John Shepheard*, the four English Captains employed by his Majesty in the defence of *Rochel*, during the whole time of the Siege.

They humbly offer unto your Lordships Consideration, the great Miseries and Pains they endured during the Siege in *Rochel*, being above 14 months feeding long on Hides and Parchments, and stinted in that.

That during that time the Petitioners had every one of them deducted 3 s. 6 d. the week out of their Pay, by the Pay-Master, which he pretended to be for Billet Money; whereas the Petitioners, and their Officers did, when Victuals was to be had for Mony, buy such Victuals as they had, at a very dear rate, from the *Rochellers*, putting his Majesty to no Charge at all for the same.

That your Petitioners were at extraordinary charge, above 200 l. a Man to maintain themselves and their Companies in that miserable Service, for Cloaths and other Necessaries, for which they grew indebted, and still owe unto the English Merchants trading there.

They therefore pray their Lordships to take the Premises into consideration.

To this Petition, their Lordships returned Answer;

That they do take notice of the Petitioners great Sufferings, and as occasion may be offered, for his Majesty's Service, they will be mindful of them.

The Bishop of *London*, after the Dissolution of the said Parliament, thought it his Duty to present to his Majesty certain Considerations in reference to the Church, Entituled;

Considerations

Considerations for the better settling of the Church-Government.

The Bishop of London presents a Paper to the King concerning the Church Government.

THat his Majesty would be graciously pleased;

(1.) To command the Lords, the Bishops, to their several Sees, excepting those which are in attendance at Court.

(2.) That none of them reside upon his Land, or Lease that he hath purchased, or on his *Commendam*, if he hold any, but in one of his Episcopal Houses; and that he waste not the Woods where any are left.

(3.) That they give charge in their Triennial Visitations, and at other times, both by themselves, and the Arch-Deacon, that the Declaration for settling the Questions in difference be strictly observed.

(4.) That a special charge be given them against frequent and unworthy Ordinations.

(5.) That a special care be had over the Lecturers in every Diocess, which by reason of their Pay are the People's Creatures, and blow the Bellows of their Sedition.

For the abating of whose Power, these ways may be taken.

1. That the Afternoon Sermons in all Parishes may be turned into Catechising, by Questions and Answers, according to an Order set out by King *James*, of blessed Memory.

If this cannot be, then,

2. That every Bishop ordain in his Diocess, That every Lecturer do read Divine Service in his Surplice before the Lecture.

3. That where a Lecture is set up in a Market-Town, it be read by a Combination of Grave and Orthodox Divines near adjoining.

4. That if an Incorporation do maintain a Lecturer, that he be not suffered to Preach, till he take upon him Cure of Souls within that Incorporation.

5. That the Bishop do countenance and encourage the grave Orthodox Divines of his Clergy, and gain them in the several quarters of his Diocess, to be present at such Lecturers Sermons, as are near them; that so the Bishop may have knowledge.

6. That the Bishop suffer none under Noble-Men, and Men qualified by Law, to have any private Chaplain in his House.

7. That his Majesty may be graciously pleased, that Men of Courage, Gravity, and Experience in Government, be preferred to Bishopricks.

8. That *Emanuel* and *Sydney* Colleges in *Cambridge*, which are the Nurseries of Puritanism, may from time to time be provided of Grave and Orthodox Men for their Governors.

9. That his Majesty's high Commission be countenanced by the presence of some of his Majesty's Privy Council, so oft at least as any matter of moment is to be sentenced.

10. That some course may be taken that the Judges may not send so many Prohibitions.

11. That

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11. That his Majesty would be graciously pleased, once in half a year, to call for an account of all, or so many of these as he in His Wisdom shall think fit.

A consideration also to be had,

1. As to the general Feoffees for Benefices and Preferments.
2. A new authorising of the Injunctions.

His Majesties
Declaration as
to Religion,
Liberty and
Property.

Also after the Dissolution of the said Parliament, his Majesty most graciously declares himself as to Religion, and the Right and Property of the Subject; 'That it is, and always hath bin Our hearts desire, to 'be found worthy of that Title, which We account the most glorious 'in all our Crown, *Defender of the Faith*. Neither shall We ever give 'way to the authorizing of any thing, whereby any *Innovation* may steal 'or creep into the Church, but to preserve that Unity of Doctrine and 'Discipline established in the time of Queen *Elizabeth*, whereby the 'Church of *England* hath stood and flourished ever since; And that 'We have by Our Proclamation and Commandment, ordered the 'Laws to be put in Execution against Priests and Popish Recusants, 'to fortify all ways and approaches against that Foreign Enemy.

'And as We have bin careful (saith his Majesty) for the settling of Religion, and quieting the Church, so were We not unmindful of the preservation of the just and ancient Liberties of our Subjects, which we 'secured to them by Our gracious Answer to the Petition in Parliament, 'having not since that time done any Act whereby to infringe them; 'but Our care is, and hereafter shall be, to keep them entire and inviolable, as We would do our own Right and Sovereignty, having for that 'purpose enrolled the Petition and Answer in Our Courts of Justice.

As his Majesty thus declared himself concerning Religion, and the Subjects Right and Property, so the Lords of the Privy Council did proceed in settling the Militia of the Kingdom, and of Tunnage and Poundage, to preserve the Narrow Seas. Also to put the Laws in execution against Popish Recusants; to which purpose these particular Orders and Directions were given.

Customs of
Tunnage and
Poundage re-
quired to be
paid.

1. As concerning Tunnage and Poundage, (the great Contest in the last Sessions of Parliament) the Privy Council thus proceeded: They directed Warrants to the Officers of the Customs in the Port of *London*, to seize and detain the Goods of any that shall attempt to Land without Warrant, till the Customs be paid.

2. And they farther ordered; That such Merchants Goods as remained on Ship-board, be removed into Store-Houses at the *Custom-Key*, and, for want of Room, into the *Tower*, to remain there, till his Majesties Duties, and the Freight due to Ship-Masters, were satisfied.

3. And whereas Attempts were made by *Replevin*, directed to the Sheriff of *London*, to obtain those Goods out of the King's Store-Houses, the Messengers of the Council were appointed to detain them in their keeping; and to apprehend, and keep in safe custody, all Persons that should make resistance in this Case.

4. Also Letters of Command were sent unto the Officers and Chief Magistrates of most Ports of the Kingdom, to assist the Officers of the

the Customs, in case of opposition, that might be made by Refractory Persons.

5 Caroli.

5. In like manner Sir *Francis Cottington* was authorized to call before him those Merchants that had been trusted by the Collectors for Sums grown due by Customs, and protracted the payment thereof; and to require them, without delay, to pay in the several Sums which they owe to his Majesty; and upon refusal, to injoin them to attend the Lords of the Council.

6. *Richard Chambers*, whose Goods were detained in the Commissioners hands, for non-payment of Customs, being fined to his Majesty in the Sum of 2000*l.* in the Court of *Star-Chamber*; and the Fine estreated in the *Exchequer*, and from thence Process of Extent issued out to levy the same. It was afterwards ordered by the Court of *Exchequer*, that the Goods should be delivered to the said *Chambers*, upon payment of so much Mony into the Court, as the Duties demanded for the King did amount unto; or levying of so much Goods as should amount to double the value of those Monies. The Privy-Council required the Commissioners not to deliver the Goods, until the Fine was first levied; the Order of the *Exchequer* no ways intending, or being intended to prevent the same, and then to observe the Order of Court.

Rich. Chambers his goods seized for non-payment of Customs; and his Fine of 2000*l.* in the *Star-Chamber* not to be extended upon the Goods.

7. About the same time a Ship returning from the *Streights*, laden with store of fine Wares, belonging to the *London-Merchants*, and consign'd for *London*, was appointed by the Merchants to come to an Anchor in *Dover-Road*: Whereupon the Council being inform'd that the Merchants intended to defraud the King of his Customs, by unlading their Goods into Catches, and other small Vessels, and Landing at unlawful Hours, in obscure Places, commanded the Officers of *Dover* to take a particular account of the Goods, and to put them into Store-houses; unless security was given to send them to the Custom-House Key at *London*. But a farther ground of the Warrant was this; because the Merchants were purposed to send their Goods into *Holland* in Catches, and not to land them at all; which purpose was held by divers Merchants; and afterwards an Order was made against this secret Conveying of Wares and Merchandizes beyond Sea in Catches, and other small Vessels, to defraud the King of his Customs.

Merchants design to send their goods beyond Seas, to avoid paying of Customs.

8. There was also a strict Order made, enabling the Messengers of the Council-Table to enter into any Ship, or Vessel, House, Warehouse, or Cellar; and to search in any Trunk or Chest, and to break any Bulk whatsoever, in default of the payment of Customs; and to apprehend all Persons that shall give out any scandalous Speeches against his Majesties service, or cause any disturbance.

Orders to search in Warehouses, &c. in case a default be made to pay Customs.

For the Publick Defence and Safety, by the settled *Militia* of the Nation, (the Trained Bands) this course was taken. The Privy-Council, in their Letters of Instruction to the Lords Lieutenants of Counties, expressing the King's Displeasure, at the great neglect of Musters in most parts of the Kingdom, required them to take care that the Trained Forces, both Horse and Foot, be compleat, according to the Modern Fashion, and be perfectly instructed in the Exercise of Arms: And that the Captains and Officers be able to perform their several Charges; and that both Officers and Souldiers be not

Militia of the Kingdom for Public defence and safety.

An. 1629. only able and sufficient Men, but well-affected in Religion; that they take the Oaths of Allegiance and Supremacy; and that if a Soldier enrol'd remove his dwelling out of the Town or Parish of his abode, notice be given thereof to the Deputy-Lieutenants of that Division; to the end that in case he have Licence to depart, his Company may be made up again. And in case any Mannor, Mansion-Houses, or Lands, which formerly found, or contributed toward the finding of Horse, or Foot, do not furnish the Musters, as formerly, by reason of the dividing of such Estate among Co-heirs, or coming into the hands of any Joynters, or Tenant in Dower, or the purchase of new Owners, that the same be supplied by the Owners, or Occupiers thereof, that no such alteration may diminish the Bands, which should rather be increased, especially the Horse. That the best sort of Men provide themselves Arms for their particular use; that the Beacons be repaired, and continued in good Order; that a Proportion of Powder, Match and Bullets be kept in the Magazines. And in regard of the great deficiency in the Horse-Bands; and Neglect in those that should shew their Horses, it was required that good Bond be taken for his Majesties use, of those that shew not, or whose Horses, Arms and Furniture are deficient, that they shall personally appear with their Horses and Arms, to shew them on the first of *October* next.

Lord Mayor of
London's Or-
der for Mili-
tia.

Captains of
Train'd Bands.

Muste-master.

The Lord Mayor of *London* received the like command concerning the Trained Forces within the City, and concerning the Arms and Furniture, the Commanders and Officers, and a convenient Magazine.

Moreover, the Council taking into Consideration the Unwillingness, Excuses and Refusals of some Gentlemen to undertake and perform the discharge of Captains of Trained Bands, which are the ordinary Forces and Strength of the Kingdom: Declared and Ordered, That the Lord-Lieutenants, in the Counties of their Lieutenancy, shall appoint for Captains, upon the vacancy of the Charge, such Gentlemen as they shall find most fit and capable: and they shall return to the Board the Names of all such as shall refuse to undertake, or execute the same, that they may be proceeded with in such manner, as their Contempt in a Case of this Nature and Importance shall deserve.

And for the exercising and keeping of the Train'd Bands in good Equipage and Order, each County was *Assessed* at a certain Rate, for the entertainment of a *Muste-Master*, who was appointed for that Service: this Money was to be granted by the Grand Jury, and collected by the High Constables of every Hundred; the Persons refusing this payment, are to be returned to the Council-Table.

But divers refusing to submit to these Taxes, the Lieutenants and Deputy-Lieutenants were commanded to sign the Assessment with their own hands; that if any should deny hereafter to pay, they should make them enter into Bond to answer this their Contempt at the Council-Table.

Also

Also after the Dissolution of the Parliament, a new occasion is offered to his Majesty of expressing his sense of, and his zeal against, Popish Recusants.

5 Caroli.

AS We were careful to make up all Breaches and Rents in Religion at home, so did We by Our Proclamation and Commandment for the execution of the Laws against Priests and Popish Recusants, fortify all ways and approaches against that Foreign Enemy; which if it hath not succeeded according to our Intention, We must lay the fault where it is, in the subordinate Officers and Ministers in the Country, by whose Remisness Jesuits and Priests escape without Apprehension, and Recusants from those Convictions and Penalties which the Law and Our Commandment would have inflicted on them.

Popish Recusants to be prosecuted.

And his Majesty in Council made a strict Order to seize upon all *English* going to Embassadors Houses to hear Mass, requiring the Lord Mayor and Sheriffs, Justices of Peace, and others, to assist the King's Messengers, in the apprehending of any of the King's Subjects going to Mass, requiring the Laws to be put in execution against them. And, to shew the clearness of his Intention, doth declare that he hath begun already at his own House, not permitting any to go to the Queen's Chappel, but those of the Queen's own House who do attend her, and requires the Privy-Council to acquaint Foreign Embassadors with this his Intention.

Recusants going to Embassadors Houses prohibited.

About this time also the Lords of the Council Ordered the Attorney General to take care, that the Statute 3 *Jacobi* be put in execution against Recusants dwelling within 10 Miles of *London*; and that the Statute of Confinement be executed against all such of them as are Lodgers about the City: and that he cause a Bill of Indictment to be Exhibited at the next Sessions, against the Keeper of New-Prison, for suffering Priests committed to his Custody to walk abroad at their Pleasure.

The Statute 3 Jac. to be put in Execution

About the same time a Letter was sent from the Council to the High Sheriff, and Justices of Peace in *Northumberland*, expressing how his Majesty was credibly informed that the number of Popish Recusants in that County, which of late years was very small, is now through too much remisness in the execution of the Laws against them, increased to such an excessive number, as hath given his Majesty just cause to be highly displeased therewith, and may justly give exceeding great offence to all his well-affected Subjects. Wherefore they thought fit (as they Declare) for the timely preventing the farther growth of such an unsufferable Evil, whereby Almighty God is dishonoured, his Majesties most gracious and religious Government may be traduced, and the Peace and Safety of the Kingdom endangered, to signify unto them his Majesties express Pleasure, that they make exact inquiry into the number of Popish Recusants Convicted, or Unconvicted, which may be justly suspected, and return a Certificate. Also that they take care that the Laws against them be put in execution without Partiality or Connivance; and that they give unto the Board a faithful account of their Proceedings herein, as they tender the good of Religion,

Recusants in Northumberland not prosecuted according to Law.

An. 1629.

Priests and Jesuits to be sent to *Wisbich*.

the happy Government of the Common-wealth, and as they would avoid his Majesties great Displeasure.

And for putting the Laws and Statutes in Execution made against Jesuits, Priests, Popish Recusants and others who had taken Orders by Authority derived or pretended to be derived from the See of *Rome*, a Proclamation issued forth that they be proceeded against and brought to Trial. It was therein farther Declared, that if upon Trial they shall be Convicted, and if there be cause to respite the Execution of any of them, it was resolved not to let them lie in common Goals, but, according to the example of former times, to send them to the Castle of *Wisbich*, or some other safe Prison, there to remain in strait and close Custody.

In pursuance of which Proclamation the Lords of the Council wrote their Letter to the Bishop of *Ely*, thereby signifying the King's Pleasure and Command, that he do forthwith prepare and make ready the Castle of *Wisbich* in the Isle of *Ely*, to lodge all Priests, Jesuits, &c. which shall be sent thither. Giving him notice also at that time that one *Southwood* a Romish Priest, is to be removed to that place.

Priests and Jesuits in *Scotland*.

In *Scotland* also, the Priests and Jesuits were very active in promoting their Religion; the People in many places coming publickly to Mass, being chiefly countenanced thereunto by Marquess *Huntley*, Earl of *Nidsdale*, *Athol*, *Abercorn*, and some others of the Nobility of *Scotland* of the Roman-Catholick Religion. But this gave such great distaste to the Council of *Scotland*, that they proceeded by way of Process against the said Marquess and Earl, who flying into *England* for refuge, and not appearing according to Summons, were all of them put to the Horn; but in *England* they found no good reception, and so returned.

Corporation of Starch-makers.

These things beforementioned of publick Concern for the Kingdom being settled by the Lords of the Privy Council, they in the Month of *July* this Year thought it their Duty to take into Consideration what probable ways might be taken to get Supply for his Majesty; and the first thing taken into Consideration, was to raise Moneys by his Majesties granting of Patents to incorporate Companies, and to bring Revenues thereby yearly into the Exchequer, by Indentures between His Majesty on the one part, and the Patentees on the other part. In prosecution of which Design it was thought fit to confirm a Grant made by King *James* to incorporate the Starch-makers into a Company, ordering them Rules for the making of Starch, and avoiding annoyances thereby. Whereupon his now Majesty for the better regulating that Trade, appointed a *Surveyor* to oversee the same in every part, and that his Majesty's Commissioners, which hereafter to that purpose he shall appoint, shall be ready to hear and dispatch all Complaints touching the Premises; and if they shall find any, whose offence and misdemeanour deserves to be made more exemplary, they are to take care that such Offenders shall undergo the censure and severity of the Court of *Star-Chamber* for that contempt of the King's Prerogative Royal; and also that all Justices of the Peace, Mayors, Sheriffs, &c. shall cause all and every the Offenders, whose offences deserve exemplary Punishment against any Branch, Article or part of his Majesties Royal Proclamation (Dated the 30th of *June*) to be bound with Sureties

Sureties in good Bond to the King's Use, for their appearance before the King and the *Privy Council*, and in the Court of *Star-Chamber*, there to answer their Contempts.

Afterwards there was a Contract by Indenture, between the King of the one part, and the Master, Wardens, and Assistants, and Commonalty of the Society of Starch-Makers of *London* on the other part, whereby the said Society doth covenant to pay into his Majesties *Exchequer*, the sum of 1500 *l.* for the first Year; and for the second Year, the sum of 2500 *l.* And after the said two Years shall be ended, to pay *per annum* to his Majesty 3500 *l.*

Next to this, it was proposed to raise Monies by Composition with Recusants, as in the following Order is exprest.

‘ **W** Hereas his Majesty had formerly granted several Commissions for Leasing Lands of Recusants, lyable to Forfeitures; with Instructions for the direction of his Commissioners in that Service: and in expectance of a due Reformation of the manifold Neglects and Abuses of his Inferior Officers and others, whereby that part of his Revenue had been much lessened, and those who were backward in their Religion, encouraged to persist in their obstinacy and blindness, his Majesty hath now caused those Commissions and Instructions to be revived, and in many parts altered, for his Majesties better Profit and Service.

Recusants to compound for their Forfeitures.

All which was published by Proclamation, to the intent that such as should be willing to contract, or to farther the service on that behalf, might attend the said Commissioners.

And whereas some had contracted for such Leases, who did not sue out the same, his Majesties declared Will and Pleasure was, That such Persons who had so contracted, should pass their Leases under Seal before the end of *Michaelmas* Term next, or else their Contracts to be utterly void.

On the 24th of *March*, 16²³, A second Proclamation was issued out for the Apprehension of *Richard Smith*, a Popish Priest, styl'd, and calling himself the Bishop of *Calcedon*, to this effect.

‘ **T** Hat his Majesty by his Proclamation, bearing date the 11th day of *December* last past, (for the Reasons therein expressed) did straitly command, That none of his Subjects should harbor or conceal the said *Smith*, but that forthwith they should arrest and apprehend his Body, and bring him before the next Justice of the Peace to the place where he should be apprehended; whom his Majesty thereby commands to be committed to Prison without Bail or Mainprise; and presently to inform his Majesty, or his Privy Council of his Apprehension. And the King did thereby declare; That if any Person should then after, directly or indirectly, harbor or conceal the said *Smith*, or use or connive at any means whereby the said *Smith* might escape from being apprehended or arrested, that his Majesty should extend the utmost severity of his Laws against every such Offender, as by his Proclamation more at large appears. Which Proclamation hath not yet wrought that good Effect which his Majesty expected; the

Concerning the Bishop of *Calcedon*, a Popish Priest.

An. 1629.



‘ the said *Smith* being still hidden and harboured by those, who being
 ‘ infected and blinded with Popish Superstition, prefer their Respects
 ‘ to him, before their Duty to their King, and the fear of his high
 ‘ displeasure, and the Consequence thereof. His Majesty therefore, by
 ‘ the Advice of his Privy Council, hath thought fit by this his second
 ‘ Proclamation, to renew his former Command in that behalf.

‘ And to the end that none of his Subjects may hereafter excuse
 ‘ themselves, by a pretended ignorance of the danger they shall fall
 ‘ into, if they shall harbour or conceal him, His Majesty doth hereby
 ‘ publish and declare, That the said *Smith* is not only a Popish Priest,
 ‘ and with high presumption taketh upon him to exercise Ecclesiasti-
 ‘ cal Jurisdiction, pretended to be deriv’d from the See of *Rome*, within
 ‘ this Realm, and endeavoureth to seduce the King’s Subjects from
 ‘ the True Religion established in the Church of *England*, (which by
 ‘ God’s Assistance, his Majesty shall ever constantly maintain) but doth
 ‘ also seditiously and traiterously hold correspondence with the King’s
 ‘ Enemies, tending to the disturbance of the State.

‘ And therefore his Majesty doth now again renew his former
 ‘ Command for the Apprehension of the said *Smith*; and doth here-
 ‘ by farther signify, That whosoever shall lodge, harbor, or relieve
 ‘ the said *Smith*, or any other Priest, Jesuit, or other, having taken
 ‘ Orders by Authority pretended to be derived from the See of *Rome*,
 ‘ shall incur the danger of the King’s Laws made against the Harbor-
 ‘ ers, Lodgers, and Relievers of Priests, to the full extent thereof;
 ‘ which by the Statutes of this Realm is Felony.

‘ And the King doth further hereby declare, That whosoever shall
 ‘ discover the said *Smith*, and cause him to be apprehended, as afore-
 ‘ said, shall have a Reward of *one Hundred pounds* in Mony, to be pre-
 ‘ sently paid unto him by the King; and shall also have the benefit of
 ‘ such Penalties and Forfeitures, which shall or may accrue unto his
 ‘ Majesty, and be forfeited by that Person in whose House the said
 ‘ *Smith* shall be found to have bin harboured or cocealed.

‘ And his Majesty doth farther charge and command hereby (as
 ‘ by his former Proclamation His Majesty did) all and singular the
 ‘ Judges, Justices of the Peace, Mayors, Sheriffs, Constables, and
 ‘ all other his Officers, Ministers, and Loving Subjects; that if they
 ‘ shall find any Person offending herein, that then they, and every
 ‘ of them, proceed with all diligence and readiness, not only against
 ‘ the said *Smith*, but also against all such as shall harbor, conceal, or
 ‘ connive at his Concealment; or shall not use their best endeavours
 ‘ for his Discovery and Apprehension, according to the utmost
 ‘ extent of the Laws.

This Bishop, as is hereafter mentioned, had bin, since the last
 year of King *James*, severely persecuted by the Regular Priests in
England, who at last over-power’d the Bishop’s Faction here, and
 forced him to fly for succor into *France*, where he was receiv’d by
 Cardinal *Richelieu*.

Le Maître and
Rufinus,
 write on be-
 half of the
 Bishop.

It may not be impertinent to give some account of this Bishop of
Calcedon, and of what esteem he had here in *England* in the exer-
 cising of his Function.

N. le Maistre a Sorbon Priest, writes thus of him; That after the Death of *William* Bishop of *Calcedon* in *England*, most of the *Secular Priests*, together with the *Benedictines*, for the advancement of the *Romish* Catholic Religion, became Suitors to the Pope and his Conclave, to have one or more Bishops created by the Pope to be sent over into *England*, to ordain Priests, give Confirmation, and exercise Episcopal Jurisdiction there. The *Regular Priests*, and some others here, did stiffly oppose this Design, but the Episcopal *Secular* and *Benedictine* Party prevailing, Pope *Urban* by his special Bull, bearing date the 4th of *August*, Anno 1625, created *Richard Smith* Bishop of *Calcedon*, and sent him over into *England* to exercise Episcopal Jurisdiction, and to be Superintendent over the Priests within the English Dominions, according to the Tenure of his Bull. But the *Regular Priests* writ divers printed Treatises against Episcopacy, and the inconveniency of having a Bishop in *England*, whose Books were referred to the Examination of the Faculty of *Paris*, and there censured; but they raised up such a Faction and Persecution against this their New Bishop of *Calcedon* in *England* and *Ireland* among the Popish Party, that they chased him out of *England* into *France*, where he was entertained by Cardinal *Richlieu*.

And the said *Le Maistre* writeth further, That this Bishop was a most Illustrious Champion, &c. fit to be settled in *England*, where the heat of Persecution hath ceased, through the dignity of a magnanimous King, and most invincible Prince by the Bourbonian Star, which hangs over these Countries in a most dear Wife; by which Stars, peradventure the Tempest of Persecution will in time be appeased, &c.

And Father *Rudecindus*, President of the *English Benedictines*, writes to the Sacred Congregation, consecrated to the Propagation of the Faith, dated from the Covent of *St. Gregory* of the *Benedictines*, at *Doway* in *Flanders*; wherein (among other things) he doth with great dolor of mind lament the Opposition given to *Matthew Kellyson* and *Richard Smith*, antient Priests, who, among others, were nominated to his most holy Lord, to undergo the Episcopal Charge in the English Mission, (for he reckons above 60 *Benedictine* Monks in *England* subject to his Congregation, and does prepare far more in their Covents to the Functions of Mission;) and doth testify that the said venerable Priests, Dr. *Matthew Kellyson* and Dr. *Richard Smith*, are in great veneration in *England*; and that Dr. *Kellyson* was chief Professor of Divinity for many years in the University of *Rhemes*; and that Dr. *Richard Smith* was first conjoined in the Society of Studies to the most Learned Bishop of *Lussion*, now Cardinal of *Richlieu*; and concludes, We *Benedictines*, your humble Servants and Sons, do humbly pray that you will be pleased to grant a Bishop to our *England*, seeing that no Province of the Catholic World hath more need of one, the observance of Ecclesiastical Discipline being not able to be preserved without Episcopal Authority. Neither is it to be doubted, for we have already seen the good success under the first Bishop, that another Bishop being constituted, you would behold more joyful Fruits within one two years in the English Mission, than hitherto ye have beheld for 60 years now elapsed. And we see not why the *Regulars*, with their Privileges given them by the Apostolic See, may not as happily

An. 1629. pily agree with a Bishop and Secular Clergy in the English Mission, as well as we see they every where do out of *England*, &c.

The Bishop of *London* in his Diary on the 29th of *March*, in which Month the Parliament was Dissolved, makes this Memorial following.

March 29
1629.

A Libel against
the Bishop of
London.

On Sunday, two Papers were found in the Dean of *Pauls* Yard before his House, the one was to this effect concerning myself. *LAUD*, *Look to thy self, be assured thy Life is sought, as thou art the Fountain of all Wickedness; Repent thee of thy monstrous Sins before thou be taken out of the World, &c. And assure thy self neither God nor the World can endure such a vile Councillor to live, or such a Whisperer, or to this effect.* The other was as bad against the Lord Treasurer. Master *Dean* delivered both Papers to the King that Night.

Lord (said the Bishop) *I am a grievous Sinner, but I beseech thee deliver my Soul from them that hate me without a cause.*

Irish Agents.

Ireland having been a long time without a Parliament, and Grievances upon the People abounding in that Kingdom, the Lord *Faulkland* then Lord Deputy condescended to the desires of the Nobility and Gentry of that Kingdom, that each Province in *Ireland* should chuse fit Persons to go into *England* to attend upon his Majesty, and present what they had to offer on behalf of themselves, and the People: to which purpose he gave them leave to name Commissioners for every Province, and particular Commissions were granted accordingly, and this which followeth was granted to the Province of *Munster*. The rest of the Commissions to other Provinces being to the same effect.

The Lord De-
puties Com-
mission to the
Irish Agents
for *Munster*.

‘ **W** Hereas it hath pleased the Right Honourable the Lord Deputy, upon the humble suit of some of the Nobility of this Realm, in behalf of themselves and other his Majesties Subjects here; That some fit Agents should be sent over into *England* to present unto His Majesty such things as may be to the behoof of his Majesties Service and good of this Kingdom; His Lordship hath condescended to the said suit, and authorized by his Lordship’s Letters of the 26th of *June* 1627, the Gentlemen and Freeholders of the several Counties of the Province of *Munster*, and the several Corporations of the same, to assemble and agree upon such Agents for the said Province to make the said Propositions as they should think fit.

Which said Letters of the Lord Deputy’s were seconded and confirmed by other Letters of his Lordship’s to the same effect, dated the 26th of *July*, the year aforesaid.

‘ We the Agents of the several Counties, and Corporations of the said Province, have accordingly met at *Fermoy* the last of *August* the Year aforesaid, and have by common Assent nominated, deputed and appointed, like as by these Presents we do nominate, depute and appoint our Trusty and well beloved *John* Lord Baron of *Carraghmore*, *Sir Edward Fitz-Harris* Baronet, *Sir John Mead* Knight, and *Richard Osborn* Esquire, to be our Agents for the said Province of *Munster*; and

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and do appoint and authorize them or any of them, to join with the Agents of the rest of the Provinces of this Kingdom, in presenting of our Grievances to the King's most Excellent Majesty; ratifying and allowing what our said Agents, or any three of them, shall do. Witness our hands the last of *August*, 1627.

Signed

Sir *William Sarsfield*.

Sir *Daniel Obrian*, &c.

The Commissioners arriving at Court in the Month of *September*, presented the following Petition to his Majesty.

The Humble Petition of your Majesties Subjects, appointed Agents to prefer certain Humble Requests and Petitions to your Highness, in the behalf of your Kingdom of Ireland.

Humbly sheweth,

THAT your Majesties Suppliants did in the behalf of your Subjects of *Ireland* offer unto your Majesty to remit and release unto your Highness 150000*l.* or thereabouts already borrowed from them, or paid to your Majesties Army there, and further to grant three Subsidies to be paid in the next three Years, which humble offers your Petitioners are now only authorized to make; as also do present certain humble Requests to your Highness, according to the instructions given them, of your Majesties faithful Subjects of your Kingdom of *Ireland*: which Offers though they do not extend to that Greatness, as from your Highnesses other more flourishing Kingdoms may be expected, yet considering the State and Poverty of the said Kingdom, they are as much as the Subjects are possibly able to afford at this time.

And lest it might be conceived or be objected by any, that these Offers are in any such kind as though your Highness's said Subjects did intend to contract with your Highness, and that they would not after the said three years express their loyal and dutiful desires to do your Majesty Service, by further contributing to your Highness's occasions, your said Petitioners do most humbly beseech your Highness to call to mind with what celerity, alacrity, and true hearty affection and duty your said Subjects, and their Ancestors in all the times of your Majesties royal Predecessors, have made demonstration of themselves, by shedding their Blood, and extending their Means in the Service of the Crown from time to time; and to conceive of your said Subjects, that as they must acknowledge themselves most bound to your Majesty, so they will be ever willing with all their Ability, Means and utmost Power, to contribute to your Majesties Affairs from time to time, not doubting that your Highness will in your Paternal Care of your loyal and faithful Subjects there, take such courses that they shall never be prest beyond the necessity of Times and their Abilities.

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‘And in regard the said Kingdom hath lately and now doth sustain
‘great Burdens, as well by your Petitioners Attendance here as other-
‘wise, that your Highness will be graciously pleased to give a favour-
‘able and speedy dispatch to this Affair, that your said Subjects being
‘eased of a great Charge, might be the better able to satisfy your High-
‘ness, according to their Desire and true Intention.

And they will ever most humbly pray, &c.

The particular Grievances presented by the said Agents, were many and long, being fifty five in Number; to each of which Grievances one by one, the King did give a particular Answer, either giving present ease to the same, or putting things into a way of future remedy. The Titles to the Answers were thus expressed.

Apostiles, Answers, and Resolutions to the humble Requests of his Majesties Subjects of the Kingdom of Ireland.

Some of their complaints were against the courses held in the Ecclesiastical Jurisdiction, touching the extortion of 13 s. 4 d. 10 s. and 6 s. 8. Sterling for every Christening, Marriage, and Burial, which being taken from the poor Husband-man, by whose labour the Landlords and Gentlemen subsist, enforceth him often with his Family to beg and quit his Residence: wherefore such Exactions being without limits, taking what they please, they procure from the Lord Deputy Warrants of Assistance to attach and imprison any such Person. And though those Warrants of unjust complaints of the foul abuses arising from them, have been recalled, and not to be allowed but by Act of State, published in that behalf: Yet are they now lately renewed, and the Subjects thereupon restrained without legal Warrant; which being abusively carried in this violent course, will in short time draw all the Treasure in the Kingdom from the Laity to the Church; wherein, as for other Duties exacted, and not warranted by Law, they desire redress.

Also against exorbitant Fees taken for Proceedings in Courts of Justice at *Dublin*, greatly to the impoverishment of the People.

Also against employing of Soldiers to fetch in the King's Revenue, and doing other things which ought to be performed by Men in a civil Capacity.

Also that the Soldiers be confined to their Garrisons, and when called to march out, that Money may be given unto them to maintain them when they are abroad.

Also that his Majesty would be pleased to take away all Monopolies, Restraints and Grants of that kind to private Men for selling of *Aqua-vita*, Wine, Ale and Beer, sealing of Barrels; abuse by short Ploughs, Tanning of Leather, &c.

That no new Charge be laid or imposed on the Subjects of that Kingdom without their own consent, being ready to contribute to the utmost of their Abilities in any his Majesties Service.

That his Majesty may be pleased to call a Parliament for the present rating of the Subsidies to be granted to his Majesty for the Favors and Graces aforesaid, and for securing the Subjects Estates, granting a general Pardon, and providing for such other things as shall be necessary

cessary for his Majesties Service, and the good of the Common-wealth.

5 Caroli

The King in his gracious Answer to this last Request, declared his Pleasure to call a Parliament to meet in *Ireland*, which did so overjoy the *Irish* Agents, as they writ Letters thereupon into *Ireland*, intimating as if they there might presently issue out Writs for a Parliament to meet: which was a great Error in them so to do, being contrary to the Law and former course of proceedings; forgetting that they must first obtain a Grant under the Great Seal of *England* to enable them to issue Writs for a Summons of a Parliament in that Kingdom. Which extraordinary haste of theirs, occasioned this ensuing Order of the Council Board in *England*.

In *Ireland* they call a Parliament irregularly.

Whereas the Board hath understood by Letters from the Lord Deputy and Council of *Ireland*, that they had already issued the Writs for the summoning of a Parliament to be held in that Kingdom in *November* next. Forasmuch as the Writs of Summons have been issued illegally contrary to the Statutes made in that behalf, *Anno Hen. 7.* And 3 *Eliz.* And the due formality of a Licence, which ought to have been first obtained of his Majesty under the Great Seal of *England*, was not obtained, whereby the said Summons is in it self Null and of none Effect, and the Parliament (if any should ensue thereupon) would be utterly void and fruitless. The Board for this Consideration thought fit and Ordered, That all the Judges of his Majesties Court at *Westminster*, that are now in or near the City of *London*, shall be prayed and required forthwith to meet together, and calling to their Assistance the Commissioners for *Irish* Causes, especially Sir *Francis Ainslow*, Vice-Treasurer of *Ireland*, and Sir *Henry Holcroft*, together with the King and Queens Attorneys and Solicitors General, or as many of them as may be had, and take into their Consideration as well the said Letters written to the Board concerning the said Summons and the Errors committed in precipitately issuing of the said Writs, as a Certificate made by the said Commissioners touching the due preparations for the calling of a Parliament in *Ireland*, and upon the whole matter, as soon as may be, to certify their Opinions in writing what course they think fittest to be held for redress, and rectifying of the before rehearsed erroneous Proceedings, whether by revoking of the former Summons, superceding or respiting them for a time, or issuing out of new, and by what means it may be done, either by Letters, Proclamations, or otherwise, as they shall think best, and most expedient for his Majesties Honour and Service; that satisfaction and full assurance may be given to his Subjects of that Kingdom, of his Royal Intention to proceed in the calling of a Parliament, so soon as things may be done in such manner and form as they ought to be, according to the ancient Custom.

Order of Reference to the Judges, concerning a Parliament in *Ireland*.

May it please your Honourable Lordships,

According to your Lordships Order the 19th of *September* last, we have taken into our Consideration the Letters written from the Lord Deputy of *Ireland*, touching the Summons of a Parliament already made there. and the former Certificate made by his Majesties

The Judges opinions concerning a Parliament hastily called in *Ireland*.

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‘ Commissioners for *Irish* Causes, as was directed by the said Order.
 ‘ Upon Consideration whereof we find that the said Summons al-
 ‘ ready made, is unwarrantable ; and that if a Parliament should be
 ‘ assembled and proceed thereupon, all that should be done therein
 ‘ would be utterly void.

‘ The Statute of 10 *Hen. 7.* commonly called *Poyning's Act*, and the
 ‘ Statute 3 and 4 of *Phil. and Mary*, expounding and explaining the
 ‘ doubts conceived upon that Act, do prescribe an absolute form of
 ‘ summoning a Parliament in that Kingdom, which must be by a Certi-
 ‘ ficate first made by the Lord Deputy and Council from thence, of
 ‘ such Acts as they would offer to his Majesties Consideration, with
 ‘ the Reasons and Motives for the same to be enacted there, and that
 ‘ Certificate to be under the Great Seal of *Ireland*: Which Acts, so
 ‘ propounded, must be returned back from hence, approved or alter-
 ‘ ed by his Majesty, as by him shall be thought fit ; together with his
 ‘ Majesties Licence for summoning of a Parliament under the Great
 ‘ Seal of *England*, and then, and not before, the Summons of a Parlia-
 ‘ ment there is to issue ; wherein if any failure be of those Circumstances
 ‘ prescribed by these two Laws, which continue in force in that King-
 ‘ dom, all that shall be done will be utterly void. We have also taken
 ‘ into our Consideration, the Lord Deputies Commission, wherein he
 ‘ hath power given him to summon the Parliament, but that is limited
 ‘ to be according to the Laws, Statutes, and Customs of that Kingdom,
 ‘ and with the King's Consent first had, and not otherwise ; which
 ‘ hath not been observed in the Summons of this intended Parliament
 ‘ in any of the points before mentioned, and therefore this Summons,
 ‘ notwithstanding that power, is illegal and void.

‘ We have also observed the passage in the Lord Deputies Letter,
 ‘ as if by an Adjournment this might be remedied ; but we are of opi-
 ‘ nion that that is not a right way, because it fails in the ground of the
 ‘ Summons. So that upon the whole matter we humbly offer our Opi-
 ‘ nions, That the best course to be held for the rectifying of the Premi-
 ‘ ses, and for avoiding of all mis-instructions thereupon, will be this :
 ‘ That directions be given from hence with all possible speed for a
 ‘ Proclamation to be there made, wherein this mistaking, and the rea-
 ‘ sons thereof, may be published, that so the Assembly may be prevent-
 ‘ ed, until by a due and orderly preparation, Summons may be legally,
 ‘ according to the said Laws and Statutes, and that by the same dire-
 ‘ ction they be advised to make due preparation for a Parliament, ac-
 ‘ cording to the recited Acts. Whereupon his Majesty may be graci-
 ‘ ously pleased to send his Licence and Consent under the Great Seal
 ‘ of *England* for the summoning of the Parliament, and so all may after
 ‘ proceed legally altho' with some loss of time, which cannot now be
 ‘ prevented. And if your Lordships shall so approve thereof, we
 ‘ humbly conceive it would not be amiss for the better expedition of
 ‘ the Service, and for the avoiding of all mistakings, that the form of a
 ‘ Proclamation to the effect aforesaid were sent thither, but to be
 ‘ made and proclaimed there, that the error may appear to have come
 ‘ from themselves, as the truth is ; which will most probably take away
 ‘ all jealousy from the People. But we are of opinion that no Gene-
 ‘ ral Writ of *Supersedeas* of the former Writ of Summons can be a-
 ‘ ward, because there neither was, nor can be any one General Writ
 ‘ of Summons, and afterwards particular Writs of *Supersedeas* to
 ‘ every

every one summoned, would be infinite and inconvenient. All which we most humbly submit to your Majesties great Wisdom and Judgment. *Serjeants-Inn in Chancery-lane, Octob. 2. 1628.*

5 Caroli.

Signed by

Thomas Richardson,
Hen. Telverton,
Geo. Vernon,
Rob. Heath,
Henry Holcroft,
Will. Jones,

George Trevor,
Fran. Ainsly,
Rich. Shilton,
John Finch,
Richard Hadzor.

In this conjuncture, the Lord *Faulkland* Lord Deputy of *Ireland*, put forth in the King's Name this ensuing Proclamation.

Forasmuch as we cannot but take notice that the late intermission of legal Proceedings against Popish pretended or titular Arch-Bishops, Bishops, Abbots, Deans, Vicars General, Jesuits, Friars, and others of that sort, that derive their pretended Authority and Orders from the See of *Rome*, hath bred such an extraordinary insolence and presumption in them, as that they have dared of late not only to assemble themselves in public Places to celebrate their Superstitious Services in all parts of this Kingdom, but also have erected Houses and Buildings, called Public Oratories, Colleges, Mass-Houses, and Convents of Friars, Monks and Nuns, in the eye and open view of the State and elsewhere; and do frequently exercise Jurisdiction against his Majesties Subjects, by Authority derived from the See of *Rome*, and (by colour of teaching and keeping Schools in their pretended Monasteries and Colleges) do train up the Youth of this Kingdom in their Superstitious Religion, to the great derogation and contempt of his Majesties Regal Power and Authority, and great offence of many of his Majesties good Subjects, contrary to the Laws and Ecclesiastical Government of this Kingdom, and the impoverishment of his Majesties Subjects in the same.

Proclamation
by the L. Deputy and Council
against
Priests, Jesuits,
&c.

These are therefore to will and require, and in his Majesties Name straitly to charge and command all, and all manner of such pretended or titular Arch-Bishops, Bishops, Deans, Vicars General, Arch-Deacons and others, deriving any pretended Authority, Power or Jurisdiction from the See of *Rome*, That they, and every of them, forbear from henceforth to exercise any such Power, Jurisdiction, or Authority within this Kingdom; and that all such Abbots, Priors, Jesuits, Friars, Monks, Nuns, and others of that sort, as aforesaid, do forthwith break up their Convents and Assemblies in all Houses of Friars, Colleges, Monasteries, and other Places, wheresoever they are or shall be conventually or collegiately assembled together within this Kingdom, and to relinquish the same, and to dispose and separate themselves.

And that all and every of the Orders before-named, and other Priests whatsoever, do from henceforth forbear to Preach, Teach, or celebrate their Service in any Church, Chappel, or other Public Oratory or Place, or to teach any School in any place or places whatsoever within this Kingdom.

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‘ And we do further charge and command all and singular the
 ‘ Owners of such Houses of Friars, Colleges, Monasteries, Schools,
 ‘ Oratories, Mass-houses, and Nunneries, That they and every of
 ‘ them respectively, in default of the Persons before-named, their vo-
 ‘ luntary relinquishing of the said Houses of Friars, Colleges, Mona-
 ‘ steries, Schools, Oratories, Mass-houses, and Nunneries, do forth-
 ‘ with expel and thrust forth all and singular such Friars, Jesuits, and
 ‘ other Monastical Persons out of the same, and do convert the same
 ‘ to more lawful Uses, upon pain to have their said Houses seized
 ‘ upon to his Majesties use; and both the one and the other to be pro-
 ‘ ceeded against for their unlawful Assemblies, and maintenance of
 ‘ such unlawful Conventicles and corrupt nurture of Children, in the
 ‘ severest manner that by the Laws and Statutes of this Kingdom, and
 ‘ Ecclesiastical Government of the same, may be had or extended;
 ‘ whereof they and every of them are to take notice, and to yield
 ‘ due obedience thereunto, as they and every of them will avoid his
 ‘ Majesties high Indignation, and the consequence thereof.

The Protestant Arch-Bishops and Bishops in *Ireland* were about this time so much scandalized to see the boldness of the Titular Popish Arch-Bishops and Bishops, Abbots, Priors, Jesuits, Friars, &c. residing in *Ireland*, to erect Houses publicly to celebrate their Popish Superstitious Services, &c. as they thought fit to publish a Declaration, in nature of a Protestation, against Popery, and a Toleration thereof, to the effect following.

The Protestation of the Bishops in *Ireland* against Popery.

‘ **T**HE Religion of Papists is Superstitious and Idolatrous, their
 ‘ Faith and Doctrine Erroneous and Heretical, their Church (in
 ‘ respect of both) Apostatical; to give them therefore a Toleration
 ‘ of Religion, or to consent that they may freely exercise their Reli-
 ‘ gion, and profess their Faith and Doctrine, is a grievous sin, and that
 ‘ in two respects: First, It is to make our selves accessory, not only
 ‘ to their superstitious Idolatries, Heresies, and in a word to all the
 ‘ Abominations of Popery, but also (which is a consequent of the
 ‘ former) to the Perdition of the seduced People which perish in the
 ‘ Deluge of the Catholic Apostacy. Secondly, To grant them a To-
 ‘ leration in respect of any Money to be given, or Contribution to be
 ‘ made by them, is to set Religion to Sale, and with it the Souls of
 ‘ the People, whom Christ our Saviour hath redeemed with his
 ‘ Blood; And as it is a great sin, so it is a matter of most dangerous
 ‘ Consequence: The consideration whereof we leave to the Wise
 ‘ and Judicious, beseeching the zealous God of Truth, to make
 ‘ those who are in Authority zealous of God’s Glory, and of the
 ‘ advancement of true Religion, zealous, resolute and courageous
 ‘ against all Popery, Superstition and Idolatry.

An Order of the Ld. Mayor of *London*, for reforming the Abuses on the Sabbath-day.

‘ **W**HEREAS I am credibly informed, That notwithstanding divers
 ‘ good Laws provided for the keeping of the Sabbath-Day Ho-
 ‘ ly, according to the expresse Commandment of Almighty God, divers
 ‘ Inhabitants and other Persons of this City, and other Places, having
 ‘ no respect of Duty towards God, and his Majesty or his Laws, but
 ‘ in contempt of them all, do commonly and of custom greatly pro-
 ‘ phane the Sabbath-Day, in buying, selling, uttering, and venting
 ‘ their

their Wares and Commodities upon that Day for their private Gain. Also Inholders suffering Markets to be kept by Carriers, in most rude and prophane manner, in selling Victuals to Hucksters, Chandlers, and all other Comers. Also Carriers, Carmen, Cloth-workers, Water-bearers, and Porters carrying of Burthens, and Watermen plying their Fares; and divers other working in their ordinary Callings. And likewise that I am further informed, That Vintners, Alehouse-keepers, Tobacco and Strong-water-sellers, greatly prophane the Sabbath-Day, by suffering Company to sit drinking and bibbing in their Houses on that day; and likewise divers by Cursing and Swearing, and such-like Behaviour, contrary to the express Commandment of Almighty God, his Majesties Laws in that behalf, and all good Government. For the Reformation whereof, I do hereby require, and in his Majesties Name straitly command all his Majesties Loving Subjects whatsoever: And also all Constables, Headboroughs, Beadles, and all other Officers whatsoever, to be aiding and assisting to J. S. the Bearer hereof, in finding out and apprehending all and every such Person and Persons as shall be found to offend in any of these kinds; and them, and every of them to bring before Me, or some other of his Majesties Justices of the Peace, to answer to all such Matters as shall be objected against them, and to put in good security for their good behaviour. Whereof fail you not, as you or any of you will answer at your peril.

April 20.
1629.

Richard Deane
Mayor.

The French King shortly after the surrender of *Rochel*, was engaged to prosecute a War in *Italy*, which he declared was begun by the *Spaniard* in taking *Mantua* and *Monteferrat*, contrary to Capitulation; which obliged him to remedy with violence those Usurpations of the *Spaniards* over the Duke of *Savoy*, the French King's Allie, and sent Cardinal *Richlieu* with an Army into those Parts; of whose prudent Conduct in his Expedition formerly against *Rochel*, his Majesty had had good experience.

It so hapned, that at *Susa* in *Italy*, in the Month of *April*, by the Mediation of the *Venetian* Ambassador, Articles of Peace between the King of *Great Britain* and the King of *France* were agreed unto; and which were by that Agreement to be made public by both Princes the 10th of *May* following.

Articles of
Peace between
England and
France, agreed
upon at *Susa*
in *Italy*.

And accordingly the *French* King ordered them to be first published at *Privas*, (being gone from *Susa* to the Camp before that City) to which his Forces had laid siege after the taking of *Rochel*; hoping by the surrender thereof, to bring the Protestants in *Languedoc* to terms of Peace.

And the *Sieur Le Bretagne*, French King at Arms, published the Peace there on the 12th of *May*, 1629, in pursuance of his Majesties verbal Command, marching before on Horse-back, with Trumpet in hand, Colours flying, having mounted his Coat of Arms on his shoulders, his Cap Hat on his Head, and his Scepter in his Hand: and this publication was made in the sight of the Besieged in *Privas*, and within less than Canon-shot of the Town. The

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The French King that day sent a Summons to *St. Andre Montauban*, the Governor of *Privas*, to render the Town; which he then refused to do, yet on the 29th of *May* it was furrendred, but in great confusion and slaughter of Men in the Town, by an accident that fell out.

The 10th day of May, was published in England the Peace with France.

The Peace
with France
published in
England.

‘ **W** Hereas there hath fallen out an interruption of Amity between the King’s Majesty and the most Christian King; which the Common Friends and Ancient Allies of both the Crowns have earnestly laboured to repair, by propounding and negotiating a Reconcilement between them upon honourable Considerations, as well to their Kingdoms, as to the general Estate of Christendom: The King’s Majesty thereupon considering how pleasing it is to Almighty God, and necessary to the present constitution of Publick Affairs, to have Concord and good Intelligence with such as be his Neighbours; and are further so nearly allied unto him, hath renewed the ancient Amity between the two Crowns, their Realms, Countries, Cities, Towns, Lands, Dominions, Territories, Signories, Castles, and Subjects, by Land, Sea, and Fresh-water. By which Peace it is already provided, that all Hostility and War, as well by Sea as Land, shall cease on either part from the 14th day of *April* last; and that the said Kings and their Subjects shall live together in Peace; and that it shall be lawful for their Subjects freely, peaceably, and quietly, to go, come, remain, and to use and exercise their Trade and Commerce, and do all things else whatsoever in each others Countries, as freely as it hath bin done in any former time of Peace had between the said Realms, and according to the ancient Treaties and Alliances between them, with opening of safe and free Trade betwixt the two Kings Dominions, according to these Treaties.

‘ And it is further ordained by the said Peace, in regard there are many Ships at Sea with Letters of Mart, which cannot so soon take knowledge of this Peace, nor receive direction to forbear Hostility, that as whatsoever hath bin, or shall be done during the space of two months after the said 14th of *April* last, shall not derogate from, nor hinder the said Peace of the two Crowns: So as whatsoever hath bin, or shall be taken within the foresaid time, shall be restored, as well on the one side as on the other.

‘ All which Premises his Majesty hath thought meet to notify to all manner of his Subjects of what estate soever, strictly charging and commanding them, to observe, and perform, and accomplish all that hereunto belongeth, as it is certainly promised to be published on the French King’s side, the date of these Presents being the Tenth of *May*, 1629.

The Articles of Peace were to this Effect.

Articles of
Peace between
the 2. Crowns
of England and
France, 1629.

1. **T** Hat the two Crowns shall remain agreed to renew the ancient Alliances betwixt them, and to keep the same inviolably, opening again the Commerce sure and free. And concerning the said Commerce,

Commerce, if there is any thing to be added or diminished about the same, it shall be done on both Parts freely and willingly, as it shall be thought convenient.

2. And forasmuch as it should be difficult to make the restitution on the one and the other part of the divers Prizes, which during this War have been taken, the two Crowns are agreed that there shall be made no Restitution. And there shall also not be granted any Repriſal by Sea, nor by any other ways whatsoever, for what is paſt between the two Kings and their Subjects during this laſt War.

3. Concerning the Articles and Contract of the Marriage of the Queen of *Great Britain*, the ſame are to be confirmed faithfully. And as for the ſaid Queen's Houſhold, if there be any thing to be added or diminished, it ſhall be done by a mutual conſent freely and willingly, as it may be judged fit and convenient for the Service of the ſaid Queen.

4. All former and ancient Alliances both of the one and the other Crown, ſhall remain in their full force, they receiving no Alteration by the preſent Treaty.

5. The two Kings being by this preſent Treaty reunited in the ſame good Affection and Intelligence where they were formerly in, ſhall imploy themſelves, and endeavour mutually to give Aid and Aſſiſtance unto their Allies and Friends, according as by the Conſtitution of Affairs, and by the advantage of a common Good ſhall be required and ſuffered. And all this to the end thereby to procure an entire Quietneſs for Chriſtendom; for the good whereof the Ambaſſadors of the two Crowns ſhall receive Propoſitions and Overtures.

6. All theſe things being re-eſta bliſhed and accepted on the one and the other Part, there ſhall be ſent reciprocally extraordinary Ambaſſadors, Perſons of Quality, with the Ratification of the preſent Agreements; The which ſhall bring with them the denomination of Ordinary Ambaſſadors, that are to reſide in the one and the other Royal Court, thereby to confirm again the Union, and to hinder all occaſions that might trouble the ſame.

7. And whereas there are yet many Ships abroad in the Sea with Letters of Mart, and Commiſſion to fight againſt their Enemies, which cannot ſo ſoon have knowledge of this Peace, nor receive Order to abſtain from all Hoſtility; therefore it ſhall be agreed upon by Article, That whatſoever ſhall be taken during the ſpace of two months after the ſignature of this preſent Treaty, ſhall be reſtored on the one and the other ſide.

8. The two Kings ſhall ſign theſe preſent Articles on the 24th day of the Month of *April*, which ſhall afterwards be conſigned and delivered at the very ſame time by their Commandments into the hands of the Lords Ambaſſadors of *Venice*, reſiding near their Royal Perſons, to be mutually delivered to the ſaid two Kings at their prefixed day, as ſoon as each of them ſhall have knowledge of the other that they have the ſaid Articles in their hands, and from the day of the Signature, all Acts of Hoſtility both by Sea and Land ſhall ceaſe, and Proclamations needful to this effect ſhall be publiſhed upon one day within the two Kingdoms. Given, &c.

5 Caroli.

His Maſteſty at the inſtance of the Queen, in regard of the Peace concluded between the two Crowns, is graciously pleaſed that certain

Certain Priests
ſet at Liberty.

An. 1629.



Priests and Recusants, who then were in several Prisons, should be released, and delivered to the *French* Ambassador to be transported beyond Seas, notwithstanding any former Orders against such Releases and Deliverances.

The Queen
delivered of a
Son.

May 13. about three of the Clock in the Morning, the Queen was delivered before her time of a Son; he was Christened and died within a short time, his Name *Charles*. This was *Ascension-Eve*; and the next day being *Ascension-day*, a little before Midnight, the Bishop of *London* buried him at *Westminster*.

July 7.
French Wines
prohibited.

Upon the Petition of the *French* Merchants, as well as of the Company of Vintners in *London*, the Importation of *French* Wines was prohibited for the space of six months, by reason of the great quantities in Merchants Cellars already, happening by the liberty taken during the time of the late Disturbance with *France*; and command was given not to import any *French* Wines in Forreign Bottoms, contrary to the Laws.

July 12.
Against selling
of Ships to
Strangers.

His Majesty being informed that fundry of his Subjects, Masters and Owners of Ships, respecting more their private Gain, than the public Good and Safety of the Land, did sell and dispose to Strangers and Foreigners, their Ships, and other Vessels, tending to the weakening of the Navigation of the Kingdom, Doth now publickly declare and command, that none of his Subjects do at any time hereafter presume to sell or alien any Ship or Vessel, unto any Person, either born or resident out of the King's Dominion, upon severe Penalties.

In this Month of *July* his Majesty was pleased to order his Privy-Council, to write a Letter on the behalf of Sir *Pierce Crosby* Knight, directed to the Lord *Faulkland*, Lord Deputy of *Ireland*, taking special Notice of his Service at the Isle of *Retz*.

A Letter on
the behalf of
Sir P. Crosby.

Whereas his Majesty, upon due consideration of the extraordinary readiness and ability of Sir *Pierce Crosby*, in the levying and transporting of those voluntary Troops employed under his Command at the Isle of *Retz*, as also upon good experience, as well of his own as of the Officers and Soldiers well approved sufficiency and fidelity in that Service, is resolved to continue them still in Employment; and hath therefore thought fit, with the Advice of this Board, to transmit them back again into *Ireland*, there to be entertained upon the List of his Majesties Army. And whereas you have received former direction from his Majesty, bearing date the 4th day of *June* last, to raise seven new Companies to make up the number of forty eight. Now his Majesty's express Will and pleasure is, and We do in his Majesties Name require your Lordship, that you forbear to raise any new Companies, notwithstanding any former direction; and that you take effectual order that the Regiment of Sir *Pierce Crosby*, consisting of ten Companies besides the Colonel's, may presently be listed as part of his Majesties Army, under the same Captains and Officers that now command them; and that upon their landing in that Kingdom, the said Sir *Pierce Crosby* and Soldiers under his Command, may receive such treatment and usage as is prescribed.

This

5 Caroli.

This Gentleman some years after fell under the displeasure of the Court of *Star-Chamber*; of which more in its proper time and place.

The 16th day of *September*, the *French King* swore the Peace in this Tenor,

The swearing of the Peace by the *French King Lewis* the 13th.

Lewis by the Grace of God, the most Christian King of *France* and *Navarre*. We swear and promise upon our Faith and Royal Word, upon the Holy Evangelist, on which We have laid Our Hand to that purpose, in the presence of Sir *Thomas Edmonds* Knight, Embassador Extraordinary from the most High, most Excellent and Puissant Prince *CHARLES*, also by the Grace of God, King of *Great Britain*, Our most Dear, Beloved and Good Brother-in-Law, Cousin and antient Allie, That We will accomplish, observe, and cause to be observed and accomplished really and *bonâ Fide*, all and every the Points and Articles agreed upon, and imported by the Treaty of Peace and Reconciliation made and concluded between Us, and Our said most dear Brother, and Brother-in-Law, Our Kingdoms, States, Countries and Subjects, the 14th of *April* last. Which Treaties and Articles We having heretofore approved and confirmed, do approve and confirm *de novo*; and do swear and promise before God, with joined hands, that We will observe the same without any contradiction directly or indirectly, nor will permit it any ways to be oppos'd; So help us God. In witness whereof We have publicly signed these Presents with Our own Hand and put thereunto Our Seal, in the Church of *Fontainbleau* the 16th day of *September*, in the Year of Our Lord 1629, and of Our Reign the 20th.

The Grand Seignior about this time resolving upon the Siege of *Bagdet*, or *Babylon*, the third time, sends his Grand Visier, *Conseron Bassa* to execute the Design, with Ammunition and Necessaries for his Army, which consisted of 200000 Men. His Military Discipline was admirable, for he punished every Soldier with Death that wrong'd any one, upon the single complaint of the Person injur'd.

The Grand Seignior sends his Visier to besiege *Babylon* with 200000 Men.

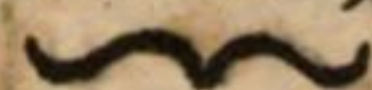
In order to this Siege, the Grand Visier set forth from *Nicomedia*, and arriv'd at *Aleppo* on *Tuesday* the 25th of *September*. During his stay at *Aleppo*, which was from the 25th of *September*, to the 8th of *October*, he executed many for their Crimes and Offences: But the *English Consul* was the first that was sensible of his severity upon this Occasion. There were four Men of War, *Corfaires*, who being met in the Port of *Alexandria*, they pillaged there three small Vessels of *Marseilles*, there being a War at that time between *England* and *France*; and upon the *French Consul's* Complaint to the Bassa of *Aleppo*, the *English Magazines* and Merchandizes were seized, and most of the Merchants imprisoned, which made the *English* return them the Vessels and Goods they had taken, and for the rest agreed with the Bassa, the Aga of *Alexandria*, Caddi and other Officers of Justice, but at the charge and cost of above 50000 Crowns.

The French Consul complains of the *English Consul*.

English Merchandizes seized.

The Grand Visier being encamped, he sent for the *English Consul*; and the *English Merchants* there on the 27th of *September* went to find

An. 1629.



Condemns the
English Con-
sul and his In-
terpreter to
be hang'd.

The English
Consul saves
his Life by
30000 Duca-
toons.

To repair
Churches and
Chappels in
decay.

Goldsmiths
shops in
Cheapside.

the Bassa in his Tent ; but being too late, they had no audience at that time.

The Morrow, being the 28th, the *French Consul* visited him very early, and was much caressed by the Visier ; but he used the *English Consul* strangely, who came not till the Afternoon, and contrary to the Custom, made him stand before him, whereas there useth to be a Seat appointed for him opposite to the Visier, who asked him, with great passion, Why the *English* did make that attempt in a Free Port ? The *Consul* replied, They were not Pirates, but Men of War belonging to their King of *Great Britain*. He answered, with greater fury, *Then thy King hath violated the Capitulations, and I am no longer obliged to observe them* ; and commands his Executioners to take the *Consul* and his *Interpreter*, and hang them both before the Castle : But the *Interpreter* being not able to walk by reason of his corpulence, they would have hang'd him on a Tree, but that the *Consul* gave them thirty Ducatoons to cut off the *Interpreter's* Head ; which they did, and furnished the *Consul* with a Horse, and carried him Prisoner to the Castle, where he was put into a sordid nasty Hole, not permitting any of his Friends to see him ; so that they thought they would murder him in the night ; but this was only to scrowe Mony out of him, for seven days after he obtain'd his Liberty at the Rate of 30000 Ducatoons, as it is related in the *French Mercury*.

On the 11th of *October*, the King expressed his pleasure concerning the decay of Churches, to this effect.

‘ **T**hat having of late taken special notice of the general Decay and Ruin of Parish-Churches in many parts of this Kingdom ; and that by Law the same ought to be repair'd and maintain'd at the proper charge of the Inhabitants, and others having Land in those Chappelries and Parishes respectively ; who had wilfully neglected to repair the same, being consecrated Places of God's Worship and Divine Service : His Majesty doth therefore charge and command all Arch-Bishops and Bishops, That they take special care of the repairing and upholding the same from time to time, and by themselves, and their Officers, to take a view and survey of them, and to use the power of the Ecclesiastical Court, for putting the same in due execution ; and that the Judges be requir'd not to interrupt this good Work, by their too easy granting of Prohibitions.

At this time the City of *London* was in great splendor, and full of Wealth, and it was then a most glorious sight to behold the Goldsmiths Shops all of one row in *Cheap-side*, from the end of the Street called the *Old-Change* near *Pater-Noster-Row*, unto the open place over against *Mercers-Chappel*, at the lower end of *Cheap* ; there being at that time but three or four Shops of other Trades that interposed in the Row. Whereupon the Lords of the Privy Council were pleased, on the 18th of *November*, to make this following Order.

‘ **F**Orasmuch as his Majesty hath received information of the unseemliness and deformity appearing in *Cheap-side*, by reason that divers Men of mean Trades have Shops there amongst the Goldsmiths ; which disorder, it is his Majesties express pleasure to have reformed ;

‘ Whereas

5 Caroli.

Whereas by occasion that Sir *Heneage Finch* Knight, and some Aldermen, did this day attend the Board upon other business, there was the same time also mention made of the aforesaid deformity. It was thereupon thought fit and accordingly Ordered, That the two Lord Chief Justices, with such other Judges as they shall think meet to call unto them, shall consider what Statutes, or Laws there are, to enforce the Goldsmiths to plant themselves for the use of their Trade, in *Cheapside*, *Lombard-street*, and the parts adjacent, and thereupon return Certificate to the Board in Writing, with all convenient expedition. Of which Order the said Lord Chief Justices are hereby prayed and required to take notice, and to perform the same accordingly.

On the 19th of *December*, provision was made against the Transporting of Timber.

Whereas his Majesty and the Board, having been informed of the great decay of Timber, as well within the Kingdom of *Ireland* as here in *England*, and that Ship-Timber, and Pipe-Staves, and more particularly Knee-Timber, is grown very scarce both here, and in that Kingdom, and therefore the preservation thereof doth much concern the good and safety of his Majesties Dominions. Their Lordships being careful to prevent the Transportation thereof, have this day thought fit and Ordered, that the Lord Treasurer do forthwith give effectual Order and Directions to the Officers of the Ports of *England*, That no Ship-Timber, especially Knee-Timber or Pipe-Staves, be Transported to any parts out of this Realm, without special direction from his Majesty, or this Board. And that the like Order be given to the Officers of the Ports of *Ireland*, for the restraint of all Transportation out of that Kingdom.

To prohibit the Transportation of Timber.

In the Month of *November* this year, *Bethlem Gabor*, Prince of *Transilvania*, who had assisted the Confederate Protestant Princes in the War, died of a *Dropsey*, to the great regret of the *Turk*, to whom he rendred many signal Services, and to the great satisfaction of the Emperor, who looked upon him as his most Puissant and redoubtable Enemy. Here followeth his Will.

The Death of *Bethlem Gabor*.

The last Will and Testament of *Bethlem Gabor* was opened, the particulars whereof were as followeth; as it appeared upon the perusal thereof, *viz.* That he did give and bequeath to his Imperial Majesty one Horse very richly harnessed, together with 40000 Duckets *in specie*; as also to his Majesty the King of *Hungaria*, one of the best Horses that ever was seen, with the Collar, Bridle and Saddle embroidered all over with Gold, Silver and precious Stones; and withal 40000 Duckets *in specie*. To the Emperor of the *Turks*, such another gallant Horse, with 40000 Duckets in like manner. To his Wife, the Princess of *Transilvania*, 100000 Duckets, 100000 Rix-Dollars, 100000 *German* Florins, and three considerable Signories, which she was to enjoy, during Life; and made the Emperor of the *Turks* his sole Executor.

His last Will and Testament.

The 30th of *December*, certain Instructions were sent from his Majesty to the Arch-Bishops of *Canterbury* and *York*, under this Title, *viz.*
Instru-

An. 1629.

Instructions for the most Reverend Father in God, Our Right Trusty, and Right Intirely Beloved Councillor George Lord Arch-Bishop of Canterbury, concerning certain Orders to be observed, and put in Execution by the several Bishops in his Province.

Afterwards called *Regal Instructions*, differing in some things from the Bishop of *London's* Considerations before-mentioned.

‘ **T**hat the Lords the Bishops give Charge in their Triennial Visitations, and at other convenient times, both by themselves, and the Arch-Deacons; that the Declaration for the settling all Questions in difference, be strictly observed by all Parties. That there be a special Care taken by them all, that their Ordinations be Solemn, and not of unworthy Persons.

‘ That they take great Care concerning the Lectures in their several Diocesses, for whom We give these special Directions following.

1. ‘ That in all Parishes the Afternoon Sermons be turn’d into Catechising by Question and Answer, where, and whensoever there is not some great Cause apparent to break this antient and profitable Order.

2. ‘ That every Bishop ordain in his Diocefs, That every Lecturer do read Divine Service, according to the Liturgy printed by Authority, in his Surplice and Hood before the Lecture.

3. ‘ That where a Lecture is set up in a Market-Town, it may be read by a Company of Grave and Orthodox Divines near adjoining, and in the same Diocefs; and that they preach in Gowns, and not in Cloaks, as too many do use.

4. ‘ That if a Corporation do maintain a single Lecturer, he be not suffered to preach, till he profess his willingness to take upon him a Living with Cure of Souls within that Corporation; and that he do actually take such Benefice, or Cure, so soon as it shall be fairly procur’d for him.

5. ‘ That the Bishops do countenance and encourage the Grave and Orthodox Divines of their Clergy; and that they use means, by some of the Clergy or others, that they may have knowledge how both Lecturers and Preachers within their Diocesses behave themselves in their Sermons, that so they may take order for any Abuse accordingly.

6. ‘ That the Bishops suffer none, under Noblemen, and Men qualified by Law, to have any private Chaplain in his House.

7. ‘ That they take special care that Divine Service be diligently frequented, as well for Prayers and Catechisms, as Sermons; and take a particular note of all such as absent themselves, as Recusants, or otherwise.

8. ‘ That every Bishop, that by Our Grace and Favour, and good Opinion of his Service, shall be nominated by Us to another Bishoprick, shall, from that day of nomination, not presume to make any Lease for three Lives, or 21 Years, or concurrent Lease; or any ways to renew any Estate, or cut any Wood or Timber, but merely

ly to receive the Rents due, and quit the Place: For we think it a hateful thing, that any Man's leaving the Bishoprick, should almost undo the Successor. And if any Man shall presume to break this Order, We will refuse Our Royal Assent, and keep him at the place he hath so abus'd.

5 Caroli.

9. And lastly; We command you to give Us an account, every Year, the second of January, of the performance of these Our Commands.

These Regal Injunctions were sent to the Arch-Bishops of *Canterbury* and *York*, and by them to all the Bishops in both the Provinces.

And in pursuance thereof, the Bishop of *London* summoned all Ministers and Lecturers within the City and Suburbs of *London*, and making a solemn Speech, pressed obedience to his Majesties Instructions, as being full of Religion and Justice, and advantageous to the Church and Common-wealth; tho' they were mistaken by some, before it was possible for them (as he said) to see and weigh them.

The Ministers and Lecturers about *London*, summoned up on this occasion before the Bp. of *London*.

And afterward the said Bishop, in order to procure ready Obedience to the King's Instructions, wrote this ensuing Letter to several Arch-Deacons.

S I R,

These are to let you understand, That his Majesty, out of his Royal and Princely Care that the Government of the Church be carefully looked unto by the Bishops, and others with whom it is trusted, hath lately sent certain Instructions to my Lord's Grace of *Canterbury*, and of *York*, to be by them dispersed to the several Bishops of each Diocese within their Provinces; to the intent, that whatsoever concerns any Bishop personally, or otherwise, in reference to those of the Clergie which they are to govern, may be by every of them readily and carefully performed. The Instructions which concern the Persons to be Governed, are only the Third, for keeping the King's Declaration, that so Differences and Questions may cease; and the Fifth about Lecturers, and the Seventh concerning private Chaplains in the Houses of Men not qualified; and the Eighth about, either Recusants, or any other that absent themselves from Church and Divine Service. All the rest are personal to the Bishops; yet because they are so full of Justice, Honour, and Care of the Church, I send to you the whole Body of the Instructions, as they came to me, praying and requiring you, as Arch-Deacon of *London*, to send me at or before Wednesday the third of February next, both the Christian and Surnames of every Lecturer within your Arch-deaconry; as well in places exempt, as not exempt; and the place where he preacheth, and his Quality and Degree. As also the Names of such Men as being not qualified, keep Chaplains in their Houses. And these are farther to pray, and in his Majesties Name to require you, that you leave with the Parson or Vicar of the place, a Copy, not of all, but of the four Instructions mentioned, with the four several Branches belonging to the Lecturers, with a charge, That the Parson or Vicar deliver another Copy of them to the Church-Wardens; and that you do not only call upon them for Performance now presently, but also take a great care from time to time, that at the end of your next Visitation, and so forward

The Bishop of *London*'s Letter concerning the King's Instructions for the Clergy.

An. 1629.

ward at the end of every severall Visitation, I may, by your self or your Officials, have true notice how they are perform'd, and where, and by whom they are disobeyed: For so much my Lord's Grace of Canterbury requires of me, as you shall see by the Tenor of his Grace's Letters to me here inclosed. I pray you in any case not to fail in this, for if you should, when I come to give up my Account, I must discharge my self upon you; and that neglect would make you go backward in his Majesties favour, besides whatsoever else may follow. Thus, not doubting of your care and fidelity in this behalf, I leave you to the Grace of God; and shall so rest,

Your very loving Friend,

Jan. 4.
1629.

Will. London.

Mr. Bernard
question'd in
the High
Commission,
for some
words in his
Prayer before
Sermon.

On the 28th of January, Mr. Bernard Lecturer at St. Sepulcher's Church, London, had this Expression in his Prayer before Sermon; *Lord, open the eyes of the Queen's Majesty, that she may see Jesus Christ, whom she hath pierced with her Infidelity, Superstition, and Idolatry.* For these Expressions he was question'd in the High Commission Court, and the Court did declare, that the same were scandalous and unadvised Speeches, derogatory to some particular Persons of most eminent Place, which the Court did not desire to have repeated: But in regard the said Mr. Bernard made an humble submission, the Court desired the Bishop of London to acquaint his Majesty therewith, and afterward Mr. Bernard was dismissed.

A Letter from the Lords of the Council to the Mayor
of Chichester, January the 4th, 1613.

Billeting of
Souldiers op-
posed at Chi-
chester.

WE have been made acquainted with your Letters of the 4th of January instant, to our very good Lord the Earl of Dorset, concerning the opposition threatned by divers of the Inhabitants of that Town, in the Billeting of Souldiers directed to be sent thither, by Letters from this Board of the 28th of this last Month. The manner and circumstances whereof, in threatening to shut the Gates of the City against them, as if you assumed to be a Free-State, and to give Law to your selves, with other Insolencies both in Speech and Action; which seem to us strange and unheard of from Persons living under a Civil Government; As that the same being come to his Majesties Ears, he doth much marvel, and is highly displeased therewithal. And whereas we understand that two of the Burgesses of the Town have been the principal Encouragers of the said Opposition, by taking upon them to tell you (the Mayor) that there could be no more Billeting of Souldiers by Law; and accordingly advised you (the Mayor) to take heed what you did, for that the Parliament would call you to an account for it, We therefore, by his Majesties express command, have sent the Bearer hereof, one of the Messengers of his Majesties Chamber, with Warrant for the taking into custody, and bringing before us the said two Burgesses; requiring you to be aiding and assisting unto him in the execution of his said Warrant. And we do likewise will and require you the Mayor, together with your Recorder, and two other Aldermen, such as you shall think fit, to make your speedy repair hither to attend us at our next sitting at Whitehall. Hereof you may in no ways fail. And so, &c.

In

In Ireland the Popish Bishops, Abbots, Vicars, Jesuits, &c. and others of that sort, assembled themselves throughout the Kingdom, in publick places to celebrate their Services, and erected Buildings, Colleges, Convents of Monks and Nuns, in the Eye and open view of the State, exercising Jurisdiction by Authority derived from the See of Rome, which every day took growth; And his Majesty and the Lords of the Council being advertised thereof from Ireland, on the 31st of January 1629, wrote the ensuing Letter, directed to the Lords Justices and Council of Ireland.

5 Caroli.

A Letter to the Lords Justices, and Council of Ireland.

BY your Letters we understand how the seditious Riot, moved by the Fryars and their Adherents at Dublin, hath by your good Order and Resolution been happily suppressed; And we doubt not but by this occasion, you will consider how much it concerneth the good Government of that Kingdom, to prevent in time the first growing of such evils. For where such People are permitted to swarm, they will soon make their Hives, and then endure no Government but their own, which cannot otherwise be restrained, than by a due and seasonable execution of the Laws, and such Directions as from time to time have been sent from his Majesty and this Board. Now it redoundeth much to his Majesties Honour, that the World shall take notice of the ability and good service of his Ministers there, which in Person he hath been pleased openly in Council, and in most gracious manner to approve and commend, whereby you may be sufficiently encouraged to go on with like resolution and moderation till the Work be fully done, as well in that City, as in the other places of that Kingdom. The carriage whereof we must leave to your own good discretions, whose particular knowledge of the present state of things, can guide you best when and where to carry a hard or a softer hand; only this we hold necessary to put you in mind, that you continue in that good Agreement among your selves, for this and other Services, which your Letters do express, and for which we commend you much. That the good Servant of the King and State may find encouragement equally from you all, and the ill-affected may find no support or countenance from any, or other connivance used, than by general advice, for avoiding further evils, shall be allowed. And such Magistrates or Officers, if any shall be discovered, that openly, or under-hand, favour such disorders, or do not their duties in suppressing them, and punishing the Offenders, you shall do well to take all fit and safe advantages, by the punishment or displacing of a few, to make the rest more cautious. This we write not as misliking the fair course you have taken, but to express the concurrence of our Judgments with yours. And to assure you of our Assistance in all such Occasions, wherein for your further Proceedings, we have advised, and his Majesty requireth you accordingly to take Order, First, That the House where so many Fryars appeared in their Habits, and wherein the Reverend Arch-Bishop and the Mayor of Dublin received the first affront, be speedily demolished; and be a mark of terror to the Resisters of Authority: and that the rest of the Houses erected, or employed there, or elsewhere in Ireland, to the use of Superstitious Societies, be converted to Houses of Correction, and to set idle People on work, or to other publick uses, for the advancement of Justice, good Art or Trade. And further, that you use all fit means to discover

A Letter from the Privy Council in England to the Lords Justices in Ireland, against the Convents of Friars, Nuns &c. erected in Ireland.

An. 1629.

the Founders, Benefactors, and Maintainers of such Societies and Colleges, and certify us their Names. And that you find out the Lands, Leases, Rents or Revenues applied to their uses, and dispose thereof according to the Law. And that you certify also the Places, and Institutions of all such Monasteries, Priories, Nunneries, and other Religious Houses, and the Means of all such Persons as have put themselves to be Brothers or Sisters therein, specially such as are of Note, to the end such evil Plants be not permitted any more to take root in that Kingdom, which we require you to take care of. As for the supply of Munition, which you have reason to desire, we have taken effectual order that you shall receive it with all convenient speed. And so, &c.

Signed by

Lord Keeper.

Lord Treasurer.

Lord President.

Lord Privy Seal.

Lord High Chamberlain.

Earl of Suffolk.

Earl of Dorset.

Earl of Salisbury.

Earl of Kelley.

Lord Viscount Dorchester.

Lord Newburgh.

Mr. Vice Chancellor.

Mr. Secretary Cook.

Sir William Alexander.

Mr. Chancey,
a Minister,
questioned in
the High-
Commission.

Mr. Charles Chancy, Minister of *Ware*, using some Expressions in his Sermon: *That Idolatry was admitted into the Church; That the preaching of the Gospel would be suppressed; That there is much Atheism, Popery, Arminianism, and Heresy crept into the Church:* And this being looked upon to raise a fear among the People, that some alteration of Religion would ensue; He was questioned in the High-Commission, and by Order of that Court the Cause was referred to the Bishop of *London*, being his Ordinary, who ordered him to make a Submission in *Latin*.

Certificate a-
gainst Mr. Pal-
mer, for non-
Obedience to
the Instructi-
ons.

Mr. Dean, Arch-Deacon of *Canterbury*, in pursuance of the aforesaid Instructions, did certify, that Mr. Palmer, a Lecturer in *St. Alphage, Canterbury*, had no Licence to preach there. That he read Prayers against the Minister's Will; and Catechised, but not according to Canon. That in the Catechising he took upon him to declare the King's Mind in his Instructions. That he had never heretofore read Prayers, or used the Surplice in the Parish. That he preached a Factious Sermon in the Cathedral Church, and detracted from Divine Service there. That Factious Parties in all the Parishes in the Town are his Auditors.

Hereupon the Commissioners willed Mr. Palmer to desist; but they did further certify, they had since been informed that his Grace the Arch-Bishop of *Canterbury* (meaning Arch-Bishop Abbot) hath authorised Mr. Palmer to preach again, but he did not long continue there.

A Grant un-
der the Great
Seal for relief
of the exiled
Palatine's
Ministers.

HIS Majesty having heretofore received certain Information, as well by the Ministers and Elders of the *Dutch Churches* both in the Parts beyond the Seas, and in our City of *London*, as by the special earnest Recommendation of our Dearest Sister, and Her Royal Consort, our Dear Brother the Prince Elector *Palatine*, of the most distressed and lamentable Estate, of the poor exiled Ministers of the
Palatinate,

5 Caroli.

Palatinate, their Wives and Children, who falling into the power of their cruel Enemies, have been spoiled of all their Temporal Estates, and exposed unto unexpressible Miseries, and are now enforced, as Exiles, to retire and hide themselves from the violence of their Adversaries, in several Cities, Towns, and other Places, where they live in very great penury and want; most of them having formerly had plentiful and liberal Means to sustain their own Charge, and to be helpful to others, whose Cases are the more to be deplored, for that this extremity is fallen upon them for their *Sincerity and Constancy in the true Religion; which we together with them do profess, and which we are all bound in Conscience to maintain to the utmost of our Powers.* Whereas these Religious and Godly Persons being involved amongst many others their Country-men, in that common Calamity, might have enjoyed their Estates and Fortunes, if with other Back-sliders in the time of trial they would have submitted themselves to the Anti-christian Yoke, and have renounced or dissembled the profession of the true Religion. The King taking these things into his Princely Consideration, and being moved with the Bowels of Compassion towards them, as feeling Members of the same Body, whereof Christ alone is the Head: And being certainly informed, that those of the *United Provinces*, and divers other *Protestants* in other places, have bountifully contributed towards their Necessities: And the King being assured that all his loving Subjects of this his Kingdom, who have long enjoyed the freedom of the Gospel, and have tasted largely of the Comfort thereof, will not be inferior to any in a work so full of Piety and Charity towards their distressed Brethren.

His Majesty, out of his Princely Grace doth Order and Grant, that a General Collection be made of the charitable Devotions and Liberalities of all his loving Subjects throughout this his Realm of *England* and Dominion of *Wales*, towards the relief and succour of the said poor Exiles.

After this Patent was passed the Great Seal, the Bishop of *London* being dissatisfied at some Expressions therein, moved his Majesty concerning the same, and prevailed to have the Patent cancelled, to the end these Words following might be left out, *viz. Which Religion we together with them profess, and are all bound in Conscience to maintain to the uttermost of our Power.* And accordingly that Patent under the Great Seal was cancelled, and a new Patent to all the intents and purposes as the former, was granted, and did pass the Great Seal; The Words last abovementioned being wholly left out.

Towards the latter end of this year, the King did seriously take into his Thoughts and Care the distressed Condition of his only Sister, the Queen of *Bohemia*, being driven out of the *Palatinate* by the Emperor, and her Husband's Patrimony given to the Duke of *Bavaria*, and therefore was willing to hearken to the Ambassadors of Foreign Princes who applyed to His Majesty in their Masters Names to join with the *French King* to mediate a Peace between the King of *Poland* and the King of *Sweden*, then at Wars together. Which Mediation those two Kings immediately undertook, and prevailed for a Truce for six years; the one fearing lest the Emperor being victorious against the confederate Protestant Princes, should through his success endea-

The King's affection to, and great care of, his only Sister the Queen of *Bohemia*.

The Kings of *England* and *France* make a Peace between the Kings of *Sweden* and *Poland*.

An. 1629

The King of Sweden designs an expedition into Germany.

Sends an Ambassador into England.

The King resolves to raise 6000 Men.

Col. Alex. Hamilton and Ramsay sent to the King of Sweden.

Execution of the Emperor's Edict in favour of the Catholick Clergy at Auspurg.

vour to extend his Empire to the prejudice of *France*; and the other hoping by making a Peace between the *Swede* and the *Pole*, to get the *Swede's* Assistance for the recovery of the *Palatinate*.

The King of *Sweden* after making the said Truce, finding the Inclinations of his Army for Action abroad, resolved to keep them together in order to a design upon *Germany*, giving out that he would relieve the oppressed Princes and People of those Provinces in *Germany*, and endeavour to restore them to their antient and undoubted Rights and Liberty.

In order to this Design, he sent an Ambassador into *England* to treat for Assistance, and the King of *Bohemia* and the Queen writ effectually to the King of *England* her Brother upon the same account; the Queen of *Bohemia* also writ to Marquess *Hamilton*, her nearest Kinsman and greatest Confident, to be Instrumental with the King her Brother, to assist the King of *Sweden* with Forces.

His Majesty readily complied with the desires of the King and Queen of *Bohemia*, and resolved to raise an Army of 6000 Men, to go under the Conduct of Marquess *Hamilton*, which should not appear to the World to be any otherwise raised, than as the voluntary assistance of his Subjects, for it was not then convenient publickly to disoblige the Emperor, while Sir *Robert Amstrother* was Ambassador at that Court, to endeavour the Restitution of the *Palatinate*; and hopes there were at the same time by a Treaty with *Spain* to gain the same.

Hereupon towards the latter end of this Year, the Marquess sent Col. *Alex. Hamilton*, Brother to the Earl of *Haddington*, to the King of *Sweden*, with a general offer of his Services; which was affectionately received by that King, who presently sent him a Commission to be General of what Army he should bring over. And to expedite a Treaty with the *Swede*, upon what terms and conditions the Marquess shall engage upon that Design: His Lordship also sent unto the King one *David Ramsay*, a Scottish Man (a Gentleman of the Privy Chamber to the King of *England*) who well understood the *German* Language, and was recommended to his Majesty by the King and Queen of *Bohemia*, as one who had approved himself faithful to the Interest of the *Palatinate* Cause.

About this time the Emperor, upon several Remonstrances, commands his Edict in favour of the Romish Ecclesiastics at *Auspurg* and other parts to be put in Execution, which is in the Circle of *Suabia*, where the Imperial Commissioners arrived in the City of *Auspurg*, with some Companies of the Peasantry, raised in the Territories of the Bishop of the said City; where they gave the Governor of their Ministry to understand his Imperial Majesties Mandate and Pleasure, That they should restore all Ecclesiastic Goods to their lawful Proprietors; and during the execution hereof, all the Churches of the City were shut up. They also acquainted the Protestant Pastors of the *Augustan* Confession with the same Mandate; That they must wholly forbear the exercise of their Religion; that those among them who had the privilege of Burgers may continue there, and for the rest, they were commanded to depart the City, and retire to some other place. During the said execution, all the Inhabitants were en-

joined

joined to confine themselves to their Houses, and to follow their Trade there, without stirring forth.

Some small time after, his Imperial Majesty finding it expedient that the Exercise of the Profession of *Auspurg* should be absolutely and totally abolished there; and being advised that there were in that City some Persons who opposed his Imperial Majesties Decrees in that behalf. Hereupon the Emperor's Commissaries, the Bishop, Magistrates, and Clergy, threatned even to plunder and burn all that they had; and commanded them to abstain from seditious Expressions upon pain of Death: And declared to the Protestant Pastors, That they were to withdraw themselves for the time to come, for that the Catholic Bishop should, as his proper right, hold the said Episcopal See.

The same Edict was also executed in the Town of *Halberstadt* on the 26th of *December*, the Imperial Commissioners being received very splendidly by the Duke of *Fridland* and Count *Tilly*. Two days after their Reception, they began to consider of the Places and Revenues to be restored to the Catholics; and though the Protestants detaining them, pretended to defend themselves by the assurances of the Emperor's Grant made to them; the Commissaries notwithstanding all that, proceeded in their Designs with rigor.

Also *Wallestein* Duke of *Fridland*, and his Heirs, were solemnly invested by the Emperor at *Vienna* with the Dukedoms of *Mecklenburg*, and that by right of a *Fee Imperial*, and by virtue of a certain Declaration of his Imperial Majesties published against the Dukes of *Mecklenburg*, and sent to the Elector of *Saxony*, whereby they stood accused of High Treason, Rebellion, &c. And that, if they did not submit to this Declaration, they should be proceeded against by the Ban of the Empire.

The King of *Sweden* hearing of these and other violent proceedings against the Protestant Princes, hastned his preparations for an expedition into *Germany*; and in the beginning of the next year 1630, concludes upon Terms with Marquess *Hamilton*, for the assistance of 6000 Men to be transported into *Germany*; of which more particularly in time and place in the next year.

An Instrument in Writing was on the 27th of *March* drawn up, declaring the death of King *JAMES*, and that by his Decease, the Imperial Crowns of *Great Britain*, *France*, and *Ireland*, are rightfully come to the High and Mighty Prince *CHARLES*: Which Writing was in the first place signed by *John Gore*, then Lord Mayor of *London*; After him by *George* Lord Arch-Bishop of *Canterbury*; *John* Lord Bishop of *Lincoln*, Keeper of the Great Seal of *England*; then by the Lords Temporal, and such other Nobility and Gentry as appeared together at that time. Which Writing, after the said Subscriptions, was published in Print by *Bonham Norton* and *John Bill*.

We hope the Reader will not think his time mispent, to take a view of the Titles of King *Charles* his Proclamations, as they came forth in order of time, from the first Year of his Reign. Wherein the Reader may observe where the Court was kept when any of those Proclamations were signed. And the Author in the Appendix doth also set down the substance of many of the most material of those Proclamations for the Reader's further satisfaction.

5 Caroli.

The Exercise of *Auspurg* Protestant Religion to be abolished.

Ecclesiast. Jurisdiction. recommit-
ted to the lawful Catholic Bishop.

The like at *Halberstadt*.

The Protestants insist on the Emperor's Grant in 1628.

The Duke of *Fridland* invested with the Dukedoms of *Mecklenburg*.

Prince *Charles* proclaimed King.

Titles

An. 1629.

Titles of PROCLAMATIONS, &c.

Pro Anno 1625.

St. James's,
March 28.

A Proclamation signifying his Majesties Pleasure, That all Men being in Office of Government at the Decease of his most Dear and most Royal Father, King *James*, shall so continue till his Majesties further Directions.

By the KING.

St. James's,
March 28.

A Declaration of the Death of his Father King *James* of the 27th of *March*, and of his being invested in the Crown Imperial of this Realm, and all other his Majesties Dominions; That he doth not mistrust but that they will shew themselves obedient Subjects.

St. James's,
April 1.

A Proclamation to Inhibit the Sale of Latine Books reprinted beyond Seas, having been first printed in *Oxford* or *Cambridge*.

Whitehall,
April 13.

A Proclamation for the maintenance and increase of the Mines of Salt-Petre, and the true making of Gunpowder, and reforming abuses concerning the same.

Whitehall,
April 13.

A Proclamation prohibiting the Importation of Allom, and the buying and spending thereof in any his Majesties Dominions.

Whitehall,
May 2.

A Proclamation concerning Buildings and Inmates within the City of *London*, and Confines of the same.

Whitehall,
May 30.

A Proclamation for the continuing of Our Farthing Tokens of Copper, and prohibiting the counterfeiting of them, and the use of all other.

Whitehall,
May 13.

A Proclamation for settling the Plantation of *Virginia*.

Whitehall,
May 14.

A Proclamation for the Prices of Victuals within the verge of the Court.

Whitehall,
May 15.

A Proclamation for the restraint of Disorders in Soldiers Prest for his Majesties Service.

Whitehall,
May 17.

A Proclamation for restraint of disorderly and unnecessary resort to the Court.

Whitehall,
May 26.

A Declaration to the same effect.

Whitehall,
June 18.

A Proclamation for the Adjournment of part of *Trinity* Term.

Oatlands,
July 12.

A Proclamation concerning the Adjournment of the Parliament.

A Proclamation for the removing the Receipt of his Majesties Exchequer, from *Westminster* to *Richmond*.

5 Caroli.

Ricos,
July 31.

A Proclamation prohibiting the keeping of *Bartholomew* Fair, and *Sturbridge* Fair.

Woodstock,
August 4.

A Proclamation for recalling his Majesties Subjects from the Seminaries beyond the Seas, and putting the Laws against Jesuits in Execution.

Woodstock,
August 14.

A Proclamation for the Adjournment of part of *Michaelmas* Term.

Titchfield,
Septemb. 4.

A Proclamation for making currant certain *French* Coin.

Titchfield,
Septemb. 4.

A Proclamation for the calling home of all such his Majesties Subjects as are now employed either by Sea or Land in the Services of the Emperor, the King of *Spain*, or the Arch-Dutchess.

Titchfield,
Septemb. 11.

A Proclamation for the further Adjournment of *Michaelmas* Term.

Salisbury,
Octob. 11.

A Proclamation for the avoiding of all Intercourse between his Majesties Royal Court, and the Cities of *London* and *Westminster*, and Places adjoining.

Salisbury,
Octob. 17.

A Proclamation for the commanding of all Souldiers lately employed in the Fleet, upon their Arrival, not to depart from their Colours.

Windfor,
Decemb. 15.

A Proclamation to forbid the Subjects of the Realm of *England*, to have any Trade or Commerce within any the Dominions of the King of *Spain*, or the Arch-Dutchess.

Hampton-
Court, Dec. 24.

A Proclamation for the well managing and arming of the Ships of or belonging to this Realm, upon their setting forth to Sea.

Hampton-
Court, Dec. 24.

A Proclamation against imbezelling of Armour, Munition, and Victual, and other Military Provisions.

Manner of
Hampton,
Dec. 25.

A Proclamation to declare his Majesties Pleasure, that a former Restraint enjoined to the Citizens of *London* for repairing to Fairs for a time, is now set at liberty.

Hampton-
Court, Dec. 30.

A Proclamation for the better confining the Popish Recusants convict according to the Law.

Whitehall,
Jan. 11.

A Proclamation for restraint of killing, dressing, and eating of Flesh in *Lent*, or on Fish days, appointed by the Law to be hereafter strictly observed by all sorts of People.

Whitehall,
Jan. 14.

A Proclamation to declare his Majesties Pleasure touching his Royal Coronation, and the Solemnity thereof.

Whitehall,
Jan. 17.

A Proclamation for a general and publick Thanksgiving to Almighty God for his great mercy in staying his hand, and asswaging the late fearful Visitation of the Plague.

Whitehall,
Jan. 22.

Titles

An. 1629.

Titles of PROCLAMATIONS, &c.

Pro Anno 1626.

Whitehall,
April 24.**A** Proclamation for the better furnishing of the Navy, and increase of Shipping.Whitehall,
May 26.

A Proclamation for Fee Decree.

Whitehall,
June 14.A Proclamation for the establishing of the Peace and Quiet of the Church of *England*.Palace of
Westminster,
June 16.

A Proclamation prohibiting the publishing, dispersing, and reading of a Declaration or Remonstrance drawn by some Committees of the Commons House of the late dissolved Parliament, and intended to have bin preferred by them to his Majesty.

Whitehall,
June 18.

A Proclamation touching Mariners.

Whitehall,
June 18.A Proclamation for the better ordering of those who repair to the Court for their Cure of the Disease called the *King's Evil*.Whitehall,
June 30.A Proclamation for a General Fast throughout this Realm of *England*.Whitehall,
July 10.

A Proclamation commanding all Inhabitants on the Sea Coasts, or in any Ports or Sea Towns, to make their speedy repair unto, and continue at the places of their Habitations there, during these Times of danger.

Whitehall,
July 24.A Proclamation touching the currency of certain *French* Coin.None such,
August 13.

A Proclamation to declare and publish his Majesties Resolution, to ascertain his Revenue by granting his Lands holden, as well by Copie as otherwise in Fee Farm.

Whitehall,
August 27.A Proclamation for all Captains, Masters and Officers of Ships, and Mariners, which are to serve in the King's Fleet, to make their present repair to *Portsmouth*.Palace of
Westminster,
Septemb. 4.*By the King.* A Declaration concerning Gold and Silver Coins.Hampton-
Court, Sept. 22

A Declaration concerning the return of Monies to be employed in the defence of the Realm, &c.

Whitehall,
Octob. 7.A Proclamation for the restraint of the disorderly repair of Mariners and Souldiers unto the King's Court, or City of *London*.Whitehall,
Octob. 7.

A Declaration of his Majesties clear intention in requiring the Aid of his loving Subjects, in that way of Loans which is now intended by his Highness.

A Proclamation commanding the repair of Noble-men, Knights, and Gentlemen of Quality unto their Mansion-Houses in the Country, there to attend their Services and keep Hospitality.

5 *Caroli.*
Whitehall,
Nov. 23.

A Proclamation to restrain the unlawful transportation of Hides and Leather.

Whitehall,
Decemb. 14.

A Proclamation for the better making of Salt-Petre in this Kingdom.

Whitehall,
Jan. 2.

A Proclamation, that all Captains, Lieutenants, and other Officers, shall repair to their Companies, and that all Souldiers shall repair to their Colours.

Whitehall,
Jan. 29.

A Proclamation for restraint of killing, dressing, and eating of Flesh in *Lent*, or on Fish-days, appointed by the Law to be hereafter observed by all sorts of People.

Hampton-Court, Jan. 25.

A Proclamation touching Tobacco.

Whitehall,
Feb. 17.

A Proclamation to prevent the furnishing of the King of *Spain* and his Subjects with Provisions for Shipping, or Munition for the Wars, and with Victuals.

New-market,
March 4.

A Proclamation for the apprehension of *John Holland* and *Robert Blow* Gentlemen, late Servants to the Earl of *Lincoln*.

Whitehall,
March 21.

Titles of PROCLAMATIONS, &c.

Pro Anno 1627.

A Proclamation prohibiting the Importation of any Goods or Merchandize whatsoever in any *French* Ships or Bottoms.

Whitehall,
April 28.

A Proclamation for the explaining of a former Proclamation lately published, intituled, a Proclamation prohibiting the Importation of any Goods or Merchandize whatsoever in any *French* Ships or Bottoms.

Whitehall,
May 12.

A Proclamation for the better execution of the Office of his Majesties Exchange, and Reformation of sundry Abuses and Frauds practised upon his Majesties Coins.

Whitehall,
May 25.

Together with the Articles, which by virtue of the Proclamation hereunto annexed, We will and command shall be duly observed.

A Proclamation against unjust pretences for colouring of *French* Goods, taken by way of Reprize.

Whitehall,
June 25.

A Proclamation for the maintaining and encrease of the Mines of Salt-Petre, and the true making and working of Salt-Petre and Gunpowder, and reforming of all abuses concerning the same.

Amptball,
July 23.

An. 1629.

Court at Wind-
for Aug. 9.
Castle at Wind-
for, August 10.

Bagshot,
August 18.

Whitehall,
Octob. 12.

Whitehall,
Novemb. 20.

Whitehall,
Novemb. 28.

Whitehall,
Novemb. 30.

Whitehall,
Decemb. 8.

Whitehall,
Jan. 25.

Whitehall,
Febr. 4.

Whitehall,
Febr. 10.

Whitehall,
Febr. 10.

Whitehall,
Febr. 15.

Whitehall,
Febr. 16.

Whitehall,
Febr. 16.

Whitehall,
Febr. 17.

Whitehall,
March 9.

A Proclamation for the Ordering of Tobacco.

A Proclamation for the Transportation of any kind of Corn, Grain, or Victuals for the supply of the Navy or Army in the parts of *France*.

A Proclamation for the Transportation of any kind of Corn, Grain, or Victuals, for the supply of the Navy, or Army, in the parts of *France*.

A Proclamation declaring his Majesties gracious intention concerning his Commission lately granted, to enquire of new Offices erected, and new Fees erected in Courts of Justice since 11 *Elizabeth*.

A Proclamation prohibiting the use of Snaffles, and commanding the use of Bits for riding.

A Proclamation commanding the repair of Noble-men, Knights, and Gentlemen of Quality, unto their Mansion-Houses in the Country, there to attend their Services, and keep Hospitalities.

A Proclamation, That all Captains, Lieutenants, and other Officers, shall repair to their Companies, and that all Soldiers shall repair to their Colours.

A Proclamation to prevent the purloining and stealing of Arms, Powder, and other Munition and Habiliments of War.

A Proclamation for all Soldiers to repair to their Companies.

A Proclamation for restraint of killing, dressing, and eating of Flesh in *Lent*, or on Fish-days, appointed by the Law to be hereafter strictly observed by all sorts of people.

A Proclamation against the unnecessary waste of Gun-powder.

A Proclamation concerning Buildings and Inmates within the City of *London*, and confines of the same.

A Proclamation for the better encouragement and advancement of the Trade of the *East-India* Company.

A Proclamation for the Execution of the Statutes made against Rogues and Vagabonds.

A Proclamation declaring the King's Royal pleasure for the assembling of the Parliament.

A Proclamation for the repressing of Disorders of Mariners.

A Proclamation prohibiting the buying and felling of any of his Majesties Arms of Munition, and to reform the abuses committed at Musters and Trainings, by borrowing of Arms.

Titles

Titles of PROCLAMATIONS, &c.

Pro Anno 1628.

5 Caroli.

A Proclamation for the better ordering of those who repair to the Court, for their Cure of the Disease, call'd the *Kings-Evil*.

Whitehall,
June 17.

A Proclamation for the calling in, and suppressing of two Sermons, Preached and Printed by *Roger Mainwaring* Dr. in Divinity, Entitled *Religion* and *Allegiance*.

Whitehall,
June 20.

A Proclamation directing how Prisoners shall be ordered, which are taken at Sea by Men of War.

Portsmouth,
July 23.

A Proclamation declaring his Majesties Royal Pleasure and Command, for putting the Laws and Statutes made against Jesuits, Priests, and Popish Recusants in due Execution.

Southwick,
Aug. 3.

A Proclamation, for the further Proroguing of the Parliament.

Hampton
Court,
Octob. 1.

A Proclamation Prohibiting the Transportation of any Corn, Grain, Victuals, Ordnance, Arms or Munition for War into the Kingdom of *France*.

Whitehall,
Octob. 15.

A Proclamation declaring the King's Majesties Royal Pleasure touching the Inhabitants of *Algier*, *Tunis*, *Sally* and *Tituan*, in the parts of *Africa*.

Whitehall,
Octob. 22.

A Proclamation declaring his Majesties Royal Pleasure, touching the *English* Soldiers late employed at Sea in his Service, and now discharged.

Whitehall,
Novemb. 15.

A Proclamation declaring his Majesties Royal Grace and Pleasure, to confirm to his Subjects their defective Titles, Estates and Possessions (as well by colour of former Grants, as without any Grant from the Crown) by his Commission granted to that purpose.

Whitehall,
Decemb. 6.

An Abstract of the several Heads and Branches of his Majesties Commission of Grace for the securing, settling and confirming to his Subjects their defective Titles, Estates and Possessions, by which his Majesties Commissioners have power to compound.

A Proclamation for the Apprehension of *Richard Smith*, a Popish Priest, stiled and calling himself the Bishop of *Calcedon*.

Whitehall,
Decemb. 11.

A Proclamation for the suppressing of a Book entitled *Appello Cæsarem*, or an Appeal to *Cæsar*.

Whitehall,
Jan. 17.

An. 1629.

Whitehall,
Jan. 22.

A Proclamation for restraint of killing, dressing and eating of Flesh in *Lent*, or on Fish-days, appointed by the Law, to be hereafter strictly observed by all sorts of People.

Whitehall,
Feb. 7.

A Proclamation for restraint of killing, dressing and eating of Flesh in *Lent*, or on Fish-days, appointed by the Law, to be hereafter observed by all sorts of People.

Whitehall,
Feb. 14.

A Proclamation for a general Fast to be held throughout this Realm of *England*.

Whitehall,
March 2.

A Proclamation about dissolving of the Parliament.

Whitehall,
March 11.

An Order of the Lords of the Council, concerning the payment of his Majesties Army employed to *Cadiz*, and for casting up of the Accounts by the Auditors of the Imprest, to the end that all Officers and Soldiers may be duly paid.

Whitehall,
March 24.

A second Proclamation for the Apprehension of *Richard Smith* a Popish Priest, stiled and calling himself the Bishop of *Calcedon*.

Titles of PROCLAMATIONS, &c.

Pro Anno 1629.

By the K I N G.

Whitehall,
March 27.

A Proclamation for suppressing of false Rumors, touching Parliaments.

A Proclamation for the Apprehension of *Walter Long* Esquire, and *William Strode* Gentleman.

Whitehall,
March 29.

A Proclamation for a General Fast to be solemnized throughout this Realm.

Greenwich,
May 2.

A Proclamation prohibiting the Exportation of Corn and Grain.

Greenwich,
May 10.

A Declaration of Peace with *France*.

Greenwich,
May 17.

A Proclamation Commanding the due Execution of the Laws, made for setting the Poor on work.

Greenwich,
May 17.

A Proclamation for the speedy sending away of the *Irish Beggars* out of this Kingdom, into their own Country; and for the suppressing and ordering of the *English Rogues* and Vagabonds according to the Laws.

5 Caroli.

Greenwich,
June 28.

A Proclamation for the better ordering of those who repair to the Court for the Cure of the Disease called the *Kings Evil*.

Greenwich,
June 30.

A Proclamation concerning the making of *Starch*, and avoiding the annoyance thereby.

Nonfuch,
July 7.

A Proclamation touching the Importation of *French Wines*.

Nonfuch,
July 12.

A Proclamation againſt ſelling of Ships.

Whitehall,
July 18.

A Proclamation for the better Discovery and Apprehenſion of thoſe Malefactours, who were Actors in the late insolent Riots and Murders committed in *Fleet-ſtreet, London*, upon *Friday* the 10th day of this inſtant Month of *July*.

Hampton-
Court,
Octob. 11.

A Proclamation for the preventing the decays of *Churches* and *Chappels* for the time to come.

Westminster,
Decemb. 27.

A Proclamation recommending to all Magiſtrates to give Paſſage to ſuch *English* and *Scottish Soldiers*, as the King hath called out of the Service of the States General, until the King ſhall have occaſion to call them to his Service. And that they be treated in their reſpective Countries with all charitable reſpect due to Men, who have faithfully ſerved the Allies of their Princes.

Whitehall,
Jan. 18.

A Proclamation for the reſtraint of killing, dreſſing and eating of *Fleſh* in *Lent*, or on *Fiſh days*, appointed by the Law, to be hereafter obſerved by all ſorts of People.

Westminster,
March 14.

That which followeth in order of time after the beforementioned Proclamation, is a Grant from King *Charles* under the Privy Seal, dated the 14th of *March* 2d. Car. of the Lights of *Dungeness* upon the Coaſt of *Kent*. And that there ſhall be collected of every Ship, Hoy and Bark that ſhall paſs that way, one penny upon every Tun, outwards and homewards bound, to the encouraging of which Grants, divers Sea-faring Men and Merchants have ſubſcribed their conſent.

The next thing Collected in Order of time after the Grant beforementioned, is a Paper, entituled *Instructions for the Clergy*.

Westminster,
March 16.

The next which follows is his Majesties Letters Patents under the Great Seal of *England*, for a Collection to be made for the poor *Exiled Ministers* and their Wives and Children, being ſpoiled of all their Temporal Eſtates, and expoſed to unexpreſſible Miſeries, whoſe Cauſes are the more to be deplored for that extremity is fallen upon them for their Sincerity and Conſtancy in the true Religion.

An. 1629.

Whitehall,
March 7.

A Proclamation, reviving and enlarging a former Proclamation made in the Reign of King *James*, Prohibiting the bringing in of any Commodities traded by the *Eastland Merchants* into this Kingdom, as well by Subjects as Strangers not free of that Company, with a Publication of certain Statutes for the restraint of all his Majesties Subjects from shipping any Commodities in Strangers Bottoms, either into, or out of this Kingdom.

Whitehall,
March 9.

A Proclamation for the restraint of excessive Carriages to the destruction of the High-ways.

Historical

Historical Collections

For the Year 1630.



WE begin this Year in order of Time, with a Letter dated the first of *April*, written from the Bishop of *Kilmore* in *Ireland*, to the Bishop of *London*, to this effect.

I Have bin (saith he) about my Diocess, and can set down, out of my knowledge and view, what I shall relate; and shortly to speak much ill matter in a few words. It is very miserable every way; The Cathedral of *Ardagh*, (one of the most ancient in *Ireland*, and said to be built by *St. Patrick*) together with the Bishop's House there, are down to the Ground: The Church here built, but without Bell or Steeple, Font or Calice. The Parish Churches all in a manner ruined, unroofed and unrepaired. The People, saving a few British Planters here and there (which are not the tenth part of the Remnant obstinate Recusants; a Popish Clergy more numerous by far than we, and in the full exercise of all Jurisdiction Ecclesiastical by their Vicars General, and Officials, who are so confident, as they Excommunicate those that come to our Court, even in Matrimonial Causes; which affront hath bin offered my self by the Popish-Primate's Vicar-General: for which I have begun a Process against him. The Primate himself lives in my Parish, within two miles of my House: The Bishop in another part of my Diocess farther off; every Parish hath his Priest, and some two or three a piece, and so their Mass-Houses: Also in some places Mass is said in the Churches. Friars there are in divers places, who go about, though not in their Habits; and by their importunate begging, impoverish the People, who indeed are generally very poor.

Bishop of *Kilmore's* Letter to the Bishop of *London*, of the increase of Popery in *Ireland*, and of the decay of Churches.

On the sixth day of *April*, his Majesty caused to be published this Proclamation for the better ordering of those who repair to the Court for the Cure of the Disease called the *King's Evil*.

Whereas by the Grace and Blessing of God, the Kings and Queens of this Realm, for many Ages past, have had the happiness, by their sacred Touch, and Invocation of the Name of God, to cure those who are afflicted with the Disease called the *King's Evil*: And his now most Excellent Majesty, in no less measure than any of his Royal Predecessors, hath had good success herein; and in his most gracious and pious disposition is as ready and willing as any King or Queen of this Realm ever was, in any thing to relieve the distresses and necessities of his good Subjects; yet in his Princely Wisdom, foreseeing that in this, as in all other things, Order is to be observed, and fit Times are necessary to be appointed for the performing of this great work of Charity: His most excellent Majesty doth hereby publish and declare his Royal Will and Pleasure to be; That whereas heretofore the usual times of presenting such persons to

Concerning the cure of the Disease called the *King's Evil*.

An. 1630.



‘to his *Majesty* for this purpose were *Easter* and *Whitsonide*; that
 ‘from henceforth the times shall be *Easter* and *Michaelmas*, as times
 ‘more convenient both for the temperature of the Season, and in re-
 ‘spect of any Contagion, which may happen in this near access to his
 ‘*Majesties* Sacred Person; and his *Majesty* doth accordingly will and
 ‘command, That from the time of publishing this Proclamation, none
 ‘presume to repair to his *Majesties* *Royal Court*, to be healed of that
 ‘Disease, before the Feast of *St. Michael* now next coming.

The Form of Divine Service used at the time of this Solemn Ce-
 remony, was as followeth.

The Gospel was read written in the 16th of *St. Mark*,
Jesus appeared unto the Eleven, &c.

And the Gospel written in the first of *St. John*,

In the beginning was the Word, &c.

And as often as the King putteth the *Angel* about their Necks,
 repeat these words,

*That Light was the true Light, which lighteth every Man into
 the World.*

After this the Lord's Prayer is said; and another Prayer on the
 behalf of the Diseased, that they receiving Health, may give thanks
 to God, &c.

William Earl of *Pembroke* on the 10th of *April* departed this Life; he was the third Earl from his Creation, Lord Warden of the *Stan-
 nerys*, Governour of *Portsmouth*, Knight of the Garter, Lord High-
 Steward of the King's Household, and Chancellor of the University
 of *Oxford*; He supt the night before his Death with the Countess of
Bedford at *Bishops-gate*, upon the day of his Birth, being then of the
 Age of seventy Years; he went home from thence to *Bainard's Castle*,
 admiring his Health, and said, He would never trust a Woman Pro-
 phetess for the Lady *Daves* sake; who told him, He should die that
 day of his Birth. He went to Bed very well, but died of an *Apo-
 plexy* before eight in the morning. He was told of the time of his
 Death long before it happened by the said Lady. Which Lady of-
 ten said to a greater Person than this Earl, That great misfortune
 would befall him, for which she was some time imprisoned.

This Earl died without Heir, and his Honour descended to *Philip
 Herbert* his Brother, Earl of *Pembroke* and *Montgomery*.

The news of his Death came speedily to the knowledge of the
 University of *Oxford*, who two days after chose the Bishop of *Lon-
 don* Chancellor; and the University shortly after came up to the Ce-
 remony, and gave the Bishop his Oath.

The timely
 conformity of
 the Ministers
 of *York* to the
 Regal Injun-
 ctions.

The Ministers of the City of *York* having given proof of their
 Obedience, in observing the late Instructions for the Clergy, did on
 the 24th of *May* make an Address to the Arch-Bishop of that Pro-
 vince, and to the Lord President of the North, for a more ample
 allowance.

This Cause was preferred to the Lords of the Privy-Council, who
 were pleased to take notice thereof; and for the encouragement of
 their Endeavours, as being fruitful in part already, and giving hope
 of

of more Fruit by Catechising, and other Divine Exercises, thought fit that an Addition should be made to their Yearly Maintenance, not exceeding *Twenty four Pounds* by the Year.

And they consider'd a course that had bin held in the like Cases in the City of *London* and *Norwich*, and other Places, which might serve for Precedents. And seeing by Order from the Board, there was an allowance of one *penny* in a *shilling* to be paid, according to the yearly Rent of Houses in *Norwich*, granted to the Ministers, and that willingly by the most, very few refusing, they concluded upon such a course to be used in *York*, though not exactly restrain'd to that proportion.

Wherefore they directed a Letter to the Lord Arch-Bishop of *York*, the Lord President of the North, and the Lord Mayor of *York*, and six of the ancientest Aldermen of that City, to enter into a serious consideration, how the Wants of these Ministers might be supplied, by levying an indifferent and competent Sum out of every Man's House-Rent as might not be burthensom; but so augmenting their allowance, as to enable and encourage them to proceed in that laudable course which they had begun.

The Lords of the Privy-Council, in order to bring in more Revenue to the Crown, advised the King to put forth a Proclamation, declaring his pleasure to confirm to his Subjects their Defective Titles, Estates and Possessions, (as well by colour of former Grants, as without any Grant from the Crown); to which purpose a Commission was lately renewed and granted; which Proclamation bore date *May 27*, to this effect.

Whereas the King's most excellent Majesty, in his gracious Favour towards his Loving Subjects, did not only renew his Commission of Grace, but also by his Proclamation given at *Whitehall*, dated the *6th* day of *December*, in the fourth Year of his Reign, did declare, That in his gracious intention towards his said Subjects, he had authorized the Lords, and others of his Privy-Council, and others of his Judges, and Counsel learned, by his said Commission, to sell, grant, and confirm to such of his Subjects, whom it might concern, their *Defective Titles to their Estates and Possessions*, in such Manours and Lands which they did enjoy; not only under colour of some Defective Titles, void or insufficient Grants, or by Letters Patents of Concealments, but also for those Manours and Lands which they did possess, meerly by Intrusion and Usurpation, without any colour of Right and Title, they never having had any Grants thereof at all, either from his Majesty, or any of his Predecessors; and yet their said Estates and Possessions are not settled by Act of Parliament, made in the one and twentieth Year of the Reign of his Dear and Royal Father King *James*, of blessed Memory, lately deceased, entitled, *An Act for the general Quiet of the Subjects against all pretences of Concealment*; conceiving that the said Subjects would have bin as forward to have embraced his said intended Grace towards them, for their own good and relief, as he was graciously pleased to offer it unto them. But his Majesty finding the contrary, and the same wholly to be neglected, might now in Justice and Reason, reduce to the Crown all such other Manours and Lands whereto

6 Caroli.

An Order of Council for increase of Maintenance for them.

Defective Titles.

An. 1630.



his Highness hath Right and Title, and which were not settled by the said Act to the increase of his Revenue. But his Majesty not being willing to construe this in the worst sense, and having nothing more in his Princely desire than the general Good of his Subjects, preferring their Peace and Quiet before his own Benefit, hath once more not only renewed, but also for the greater relief of his said Subjects, enlarged his said Commission of Grace, to sundry his said Lords and others of his Privy-Council, Judges, and Counsel learned, giving them the like Authority to compound with such of his Loving Subjects, whom it may concern, and shall seek composition at their hands for any of the Manours, Lands, Tenements, and other the Hereditaments of the several Natures and Qualities contained and expressed in the Schedule, which his Majesty hath caused hereunto to be annexed, whereby each one, whom it concerneth, may take knowledge, for what and how he may be relieved by the said Commission, if in time and by a due course he shall seek the same.

But his Majesty doth further declare his Royal Pleasure by his publick Declaration to be, That if those whom it may concern, shall not by or before the Feast of *All Saints* next, attend his Majesties Commissioners for such moderate and reasonable Compositions as shall be found fit and equal for them, for or concerning any of the said Premises so by them intruded upon, and unjustly detained from his Majesty, that his Majesty will not in prejudice of his just Title and Revenue, defer his own Benefit any longer, but either take a legal course for the reducing of such Manours and Lands, and other the Premises (of such Person and Persons as shall any longer neglect his gracious Offer) to the encrease of his Revenue; or otherwise grant the same over unto such others, as shall be Suitors to him for the same.

And his Majesty the better to be informed who imbraceth this his Royal Grace, and who neglecteth the same, hath appointed and commanded *Robert Tipper* of *Grays Inn* his Majesties Servant, to attend his Majesties Commissioners, as in former times he hath done, who is to acquaint his Majesties said Commissioners with the state of the several Cases of those that shall seek a Composition as aforesaid, and who do accept this his Majesties Grace, and who not; whereupon such further Proceeding may be had according to their said several Neglects, as his Majesty in his Wisdom shall think fittest.

Instructions were also given by the King to the said Commissioners, how to proceed and make Composition with such Persons as should make suit for the same; which see at large in the Appendix.

Prince Charles
born.

* *W. Sander-
son*, Reign of
King Charles,
pag. 147.

On the 29th of May Prince Charles was born, a little before one of the Clock in the Afternoon; and the Bishop of *London* had the honour to see him before he was an hour old. At his Birth there appear'd a Star visible that very time of the day, when the King rode to *St. Paul's* Church to give thanks to God for the Queen's safe delivery of a Son. But this Star then appearing, * some say was the Planet *Venus*; others *Mercury*, the Sign of *Merlin's* Prophecy. *The splendor of the Sun shall languish by the paleness of Mercury, and it shall be dreadful to the Beholders. Any Planet* (says the Astrologer) *within its degrees of the Sun is very unfortunate; and Mercury being the Lord of the Ascendent,*

cendent and Mid-heaven, was a chief Significator of the Prince his Person, who being afflicted by the presence of the Sun, yet miraculously God did by his power make this Star shine bright in a clear Sun-shine day, which was contrary to Nature. Thus much out of the Reign of King Charles, from his Birth to his Grave. Page 141. Besides the Author of this second Part was present at this appearance of the Star at that time, when the King and his Nobles rid on Horseback to St. Pauls.

The next day being the 30th of May, the King writ a Letter to the Bishop of London, under the Privy Signet, to give him publick notice of the Prince's Birth.

CHARLES REX.

Right Reverend Father in God, Right Trusty and Wellbeloved Counsellor, We Greet you well. Whereas it hath pleased God of his infinite Grace and Goodness to vouchsafe unto us a Son born at our Manour of St. James, the 29th day of this present Month of May, to the great comfort not only of our selves in particular, but to the general Joy and Contentment of our Loving Subjects, as being a principal means for the establishment of the prosperous estate and Peace of this and other our Kingdoms, whose Welfare We do and will ever prefer before any other earthly Blessing that can befall us in this Life. We therefore according to the laudable Custom of our Royal Progenitors in like case heretofore used, have thought fit to make known unto you these glad tidings, being well assured that with all dutiful and loving Affection you will embrace whatsoever may make for the prosperous advancement of the publick Good.

The King's Letter to the Bishop of London concerning the Birth of the Prince.

On the said 29th of May, a great Cause was brought to hearing in the Star-Chamber, concerning a Discourse, entituled, a Proposition for his Majesties Service to bridle the Impertinency of Parliaments. Wherein the King's Attorney General was Plaintiff, the Earl of Bedford, the Earl of Clare, the Earl of Somerset, Sir Robert Cotton, John Selden, Oliver St. John, and others Defendants: which Information we have inserted at large in the Appendix to the first part of Historical Collections; here now followeth the Answers of the Defendants, and the Judgment of the Court thereupon, viz.

After the King's Attorney General opened the aforementioned Information: The Answer of Robert Earl of Somerset to the said Information, was also opened by his Council, to this effect:

The Earl of Somerset's Answer.

That the Discourse, as he believed, was either the same that was shewed him in the time of his Attendance near his late Majesty King James, or had many of the same things in it: And finding no cause of concealing a Proposition made in a former King's time, and having no Apprehension, that Scandal to his Majesty, or the present Government, might thereby happen, he casually imparted it to the Earls of Bedford and Clare, who after perusal thereof, delivered their Opinion concerning it, at their next meeting; 'That it was a phantastick Project of some brain-sick Traveller, who had made Collections of some Princes in Italy, and other Foreign States, no way suitable to the Government of this Kingdom. —

The Cause against the Earl of Somerset, &c. brought to Hearing.

An. 1630.



And further said, that (besides that one time) there was never any Conference, nor any passage by Letter or otherwise, betwixt them concerning it, or with any other Person, and denied that he either contrived the *Proposition*, or knew of the contriving thereof, or ever imagined that his Majesty would innovate the ancient Form of Government, dispose of the Estates of his Subjects without their Consents, make or repeal Laws by Proclamation without Consent of Parliament, plant Garrisons in his principal Cities and Towns, or put in execution any part of the said Discourse: And the reason why he did not present the Discourse to his Majesty, or some of the Lords of the Council, or some Magistrate, was, because he did not conceive the same did in any sort concern the time of his Majesties Government, but was contrived in some former time, as appeared manifestly, by the particulars therein contained; and that about 16, or 17 years ago, Sir *David Fowles* shewed him the Project, to whom he replied, 'That he was satisfied 'no use could be made thereof, and so he redelivered it, and concluded that the divulging thereof was in his opinion pardoned by the 'general Pardon granted upon his now Majesties Coronation.

The Answer
of the rest of
the Defen-
dents.

The rest of the Defendants denied any their contrivance thereof, alledging the Author (as they were informed) was living beyond Sea, and that they ought not to be questioned for it, being writ in the time of King *James*, and not in reference to his now Majesties Government, denying that they had the least thought or intention to scandalize the Government; for that they rejected the Discourse as soon as they read it, as a foolish and impertinent issue of some projecting Brain; and they averred their detestation of such a Project, and that they bore Loyal Hearts to his Majesty, and blessed God for the happy and peaceable Government under him.

Sir David
Fowles his
Examination.

After the Publication of the Cause in order to a Hearing; it appeared by the Depositions of Sir *David Fowles*, that he received the said Writing from one Mr. *Tates*, in the time of King *James*, who brought it from Sir *Robert Dudley* at *Florence*, together with a Letter, desiring him to deliver it to the Earl of *Somerset*, that he might communicate it to King *James*, which was done accordingly, and that in his hearing the Earl signified a dislike thereof. And that he received it back from the Earl (being the Original) and kept it by him till the Lords of the *Council* sent for it, and that he made no Copy thereof.

It appeared also by the Depositions of other Witnesses, that this Discourse *nine years* ago, was bought by them in *Little Britain* amongst other *Manuscripts*.

The Court en-
ters upon the
Hearing of the
Cause.

So this Cause coming to Hearing, a great presence of Nobility being in Court, the Attorney General opened the Charge. But before much proceeding, his Majesty sent word unto the Lord *Keeper Coventry*, then in Court, that the *Queen* was brought to Bed of a *Son*, and a private Message also was delivered to him from the King; whereupon the Lord *Keeper* declared in Court, that His most Sacred Majesty had taken this matter into his most serious Consideration, and although the same was of so High a Nature, as it was necessary to be brought in question, (being contrary to many Laws and Statutes, and the common Law it self,) yet his Majesty ballancing the same in the Scales of Justice and Mercy (the Author of the Discourse being discovered to live beyond the Seas) found these Defendants rather fitting to be Objects of his Mercy, than Justice, they being some of them *Noblemen*, and such as

The Lord
Keeper declares
the King's
Pleasure as to
this Cause.

His

his Majesty did and doth well esteem and like of, in his Royal Opinion.

And that his Majesty was the rather inclined to extend his goodness, in regard of the time; it having now pleased the great Justice of Heaven to bless his Majesty and his Kingdom with a *Royal Issue* of his Body, a hopeful *Prince*, the great joy and long expectation both of King and Kingdom.

Upon this Declaration of the King's pleasure, the Lord *Keeper* made known, that the Court by his Majesties special Command was to proceed no further in the hearing of this Cause: But ordered the *Project*, or *Book*, to be burnt, as seditious and scandalous both to his Majesty, the State and Government of this Kingdom. And ordered the Proceedings to be taken off the File.

Two days after the birth of the *Prince*, *Gustavus Adolphus* King of *Sweden* on the 31 of *May*, signed the Articles agreed unto between that King and the Marquess of *Hamilton*, about the bringing of an Army of 6000 Men into *Germany*, for the Assistance of the King of *Sweden*, and in order to the relief of the *Palatinate*.

WE *Gustavus Adolphus* by the Grace of God King of the *Swedes*, *Goths*, and *Vandals*, Great Prince of *Finland*, Duke of *Esthonia* and *Carelia*, and Lord of *Ingria*, &c. To all and sundry whom it concerns, make it known and certain, That whereas the illustrious and our sincerely beloved Lord *James Marquess of Hamilton*, Master of the Horse to the most Serene King of *Great Britain*, out of his Zeal for the public Good, and for acquiring eternal Fame, hath resolved to dedicate himself, and the Fortunes and Forces of all he is concerned in, for restoring our oppressed Friends in *Germany*; and for that end hath offered to us by the illustrious and our sincerely faithful Colonel *Alexander Hamilton*, his Fidelity and Service; and that he will on his own expence gather a strength of six thousand Men, and bring them over as soon as may be, to any place we shall appoint, either against the *Imperialists*, or any other of our Enemies, and maintain them on his own Charge, and do us all faithful and vigorous Service with them, till this great Affair be brought to a good issue; provided we shall authorize this his Design with our Protection, and give him the underwritten Assistance: Therefore there being nothing dearer to Us than to make us all vigorous resistance to the common Enemies of *Liberty*, and having in high estimation the brave Undertakings of Generous Men, we not only would not reject, but have heartily embraced the nobleness of so good Resolutions: We have therefore admitted, like as by the vigour of these Presents, We admit the said Lord Marquess in our Service, Armies, and Military Councils, on the following Conditions.

1. Whenever he shall signifie to Us that he is ready to bring over his Forces, We shall assign him a place for his Landing, either to come and join with our Armies, or to make an Impression elsewhere, as we shall think fit.

2. If we appoint him to Land in any place, from whence he shall not come straight to us, We shall for strengthening his Forces send, to the place we shall assign for his Landing, four thousand Foot out of our Armies, whom we shall furnish with all Necessaries, and maintain on our Charges a whole Year.

3. Be-

6 Caroli.

No further Proceedings to be against the Defendants.

Articles agreed unto by the King of Sweden.

The Condition of Agreement between the King of Sweden and Marquess of Hamilton.

An. 1637.



3. ' Because the said *Marquess* thinks *two thousand Horse* are necessary for his Foot, for *whose Levy and Pay* he promises all Assistance; We shall therefore think of all ways and means for raising and maintaining these.

4. ' We not only give the said *Illustrious Marquess* the *Absolute Command of this Army* in our Absence, but shall also join to him a *Counsellor*, with whom he may consult in all things, that so his Deliberations be more expedite and clear.

5. ' Whatever the *Illustrious Lord Marquess* shall take from the Enemy, the *Lands and Territories* shall belong to Us, but the *Revenues* and all the *Emoluments* shall go to him, and to the Relief of his Army; yet so as these *Revenues* shall be gathered decently and in order, without *Depredations or Plunderings*: Since our Design is not to oppress those who have been already enough pressed, but rather to deliver them from the Oppressions of others, as much as by the Divine Assistance we can.

6. ' That the *Marquess* may more effectually perform what he hath bravely resolved, and may sooner make those *Warlike Instruments* of his own *Invention*, on which he relies much in his Expedition, We shall not only (with the first occasion) furnish him with a hundred *Ship-pounds of crude Iron*, but shall also assign *Hammers* for working it according to his Design; of which *Instruments* he hath promised to leave a *Model* with Us, and We shall be careful that none of our Servants shall make use of them, before he hath first made trial of them himself.

7. ' We shall also furnish him with three hundred and seventy *Ship-Pounds of Iron Ball* for his Guns, and two thousand five hundred *Pikes*, and as many *Musquets*.

8. ' Whenever the *Marquess* shall advertise us of his needing *Gun-powder*, we shall assign him *Bills of Exchange* in *Holland* for buying seventy two *Ship-pounds of Gun-powder*.

9. ' If any other Kings or States shall concur with us, all they contribute shall be at our *Disposal*: but if the *Marquess* his necessities require further assistance, We shall not abandon him, but faithfully assist him as much as our Affairs shall permit.

10. ' For all which the said *Illustrious Lord Marquess* with all his Forces hath promised *Fidelity* to us, and shall be bound to it as well as our Men, and those who receive our Pay are; for which both he, and all his Captains shall be particularly engaged.

' But because there is to be a Treaty betwixt our Commissioners and the Imperialists at *Dantzick*; therefore if a Peace shall be there concluded, so that We shall not need the service of the *Marquess* and his Army, he hath obliged himself to pay for the foresaid Materials at their entire Value.

' All which things being thus concluded, and to be firmly observed by Us, We have subscribed these Articles with our Hand, and commanded our Royal Seal to be put to them, at our Castle in *Stockholm* the last of May, Anno Dom. 1630.

Signed,

Locus
Sigilli.

Gustavus Adolphus.

The

The *Marquess* afterwards sign'd the Counterpart of these Articles, differing only in some words of explanation.

6 Caroli.

Another remarkable Cause shortly after was heard in the Court of *Star-Chamber* against *Alexander Leighton*, Doctor of Divinity. The Cause was thus.

An Information was formerly exhibited in the *Star-chamber* against *Alexander Leighton* a Scotsman born, and a Doctor of Divinity, came to be heard the 4th of June in the Court of *Star-chamber*, for framing a Book, entitled, *An Appeal to the Parliament*, or a *Plea against Prelacy*. Which he printed and published, during the sitting of the last *Parliament*: and delivered it to diverse Persons in a way of presenting just Complaints (as he gave out) to the then *Commons House* of *Parliament*, 4 Carol. 1.

Dr. Leighton
his Cause
heard June 4th

The Defendant was charged by the said Information with framing, publishing, and dispersing a Scandalous Book against *King*, *Peers*, and *Prelates*, wherein amongst other things he sets forth these false and seditious Assertions and Positions following.

Information
in the *Star-
Chamber* a-
gainst Dr.
Leighton.

1. 'That we do not read of greater Persecution and higher Indignity done upon God's People in any Nation professing the Gospel, than in this our *Island*, especially since the death of *Queen Elizabeth*.

2. 'He terms the *Prelates* of this Realm *Men of Blood*, and Enemies to God and the State, and saith, That the maintaining and establishing of Bishops within this Realm is a main and master-Sin established by Law, and that Ministers should have no Voices in Council *Deliberative* and *Decisive*.

3. 'He avowed the *Prelacy* of our Church to be *Antichristian* and *Satanical*, and terms the Bishops, *Ravens* and *Magpies*, that prey upon the State.

4. 'He terms the *Canons* of our Church, made *Anno 1603*, *Nonsense Canons*.

5. 'He disallowed and contemned the Ceremony of *Kneeling* in the receiving of the Sacrament, alledging that the suggestion of false fears to the King by the *Prelacy*, and the seeking of their own unlawful standing, brought forth that received Spawn of the *Beast*, *kneeling* at the receiving of the Sacrament.

6. 'He affirms that the *Prelates* did corrupt the King, forestalling his Judgment against God and Goodness, and most audaciously and wickedly calleth his Majesty's Royal Consort, our gracious *Queen*, the *Daughter of Heth*.

7. 'He most impiously seems to commend him that committed the barbarous and bloody Act of Murdering the late Duke of *Buckingham*, and to encourage others to second him in the like wicked and desperate Attempt, to the destruction of others.

8. 'He layeth a most seditious Scandal upon the King, State, and Kingdom, wickedly affirming, *that all that pass by us spoil us, and we spoil all that rely upon us*. And amongst other particulars, instanceth the black pining death of the famished *Rockelers*, to the number of 15000 in four Months: by which Passages and wicked Positions and Assertions, he did as much as in him lay, scandalize his Majesty's Sacred Person, his Religious, Wife, and Just Government, the person of his Royal Consort the *Queen*, the Persons of the *Lords* and *Peers* of this Realm, especially the Reverend *Bishops*.

They were
all alike
guilty of
murder
which was
a disgrace
to the
country

9. 'That

An. 1630.

9. ' That in another place of the said *Book*, endeavouring to slander not only his Majesty's Sacred Person and Government, but also to detract from his Royal Power, in making Laws and Canons for Government Ecclesiastical; and in matters concerning the Church, he saith, That the Church hath her Laws from the Scripture, and that no King may make Laws in the House of God: for if they might, then the Scripture might be imperfect.

10. ' And further charged, that in another place of the said *Book*, thinking to salve all with an expression of his Sacred Majesty, he hath these words following; *What pity it is, and indelible dishonour it will be to you the States Representative, that so ingenious and tractable a King should be so monstrously abus'd, to the undoing of himself and his Subjects?*

Dr. Leighton's Answer.

The Defendent in his Answer confessed the writing of the *Book*, but with no such ill intention, as by the said Information is suggested; his end therein being only to Remonstrate certain *Grievances* in Church and State, under which the People suffered, to the end the Parliament might take them into consideration, and so give such Redress, as might be for the Honour of the King, the Quiet of the People, and the Peace of the Church.

June 4.

At the hearing of the Cause, the Defendent's Answer was read at large, and the aforesaid Particulars charged in the Information as Seditious and Scandalous, were also read out of the *Book*. After which the Court proceeded to give Sentence, and did there declare, That it evidently appeared upon Proof, that the Defendent had printed five or six hundred of the said *Books*, and that in their opinions he had committed a most odious and heinous Offence, deserving the severest punishment the Court could inflict, for framing and publishing a *Book* so full of most pestilent, devilish and dangerous Assertions, to the scandal of the *King, Queen and Peers*, especially *the Bishops*.

The two Lord Chief Justices being present, delivered their opinions, that they would without any scruple have proceeded against the Defendent as for Treason committed by him, if it had come before them; and other Lords, expressly affirm'd, that it was his Majesties exceeding great Mercy and Goodness, that he was brought to receive the Censure of this Court, and not questioned at another *Tribunal* as a Traitor.

And their Lordships by an Unanimous Consent adjudged and decreed, that Dr. *Leighton* should be committed to the Prison of the *Fleet*, there to remain during Life, unless his Majesty shall be graciously pleased to enlarge him; and he shall pay a *Fine* of 10000*l.* to his Majesty's use.

And in respect the Defendent hath heretofore entred into the Ministry, and this Court for the Reverence of that Calling, doth not use to inflict any Corporal or Ignominious Punishment upon any person, so long as they continue in Orders, The Court doth refer him to the High Commission, there to be degraded of his Ministry; And that being done he shall then also for further punishment and example to others, be brought into the *Pillory* at *Westminster*, (the Court sitting) and there Whipped, and after his Whipping be set upon the *Pillory* for some convenient space, and have one of his Ears cut off, and his Nose slit, and he branded in the Face with a double S S, for a *Sower of Sedition*;

dition; and shall then be carried to the Prison of the *Fleet*, and at some other convenient time afterwards shall be carried into the *Pillory* at *Cheapside*, upon a Market-day, and be there likewise Whipt, and then be set upon the *Pillory*, and have his other Ear cut off, and from thence be carried back to the Prison of the *Fleet*, there to remain during Life, unless his Majesty shall be graciously pleased to enlarge him.

This Sentence being given toward the end of *Trinity Term*, and the Court not usually sitting after the Term, unless upon emergent occasions, and it requiring some time in the *Ecclesiastical Court*, in order to the Degradation of the Defendent, it was *Michaelmas Term* following before any part of the Sentence could be put in Execution; but *November* the 4th he was accordingly degraded, and on *Wednesday November* the 10th (being a *Star-Chamber day*) he was to have undergone the Execution of this Sentence; but the evening before he escaped out of the *Fleet*, where he had been kept a close Prisoner, and Information hereof being given to the Lords of the Privy Council, they ordered this Hue and Cry to be Printed to retake him.

A Hue and Cry against Dr. *Leighton*, by Order of the Privy-Council.

W Hereas Alexander Leighton, a Scottish Man born, who was lately sentenced by the Honourable Court of Star-Chamber, to pay a great Fine to his Majesty, and to undergo Corporal Punishment, for writing, printing, and publishing a very Libellous and Scandalous Book against the KING, and his Government; hath this eleventh day of November escaped out of the Prison of the Fleet, where he was a Prisoner: These are in his Majesties Name to Require and Command all Justices of Peace, Mayors, Sheriffs, Bayliffs, Customers, Searchers and Officers of the Ports, and all others his Majesties loving Subjects, to use all diligence for the Apprehending of the said Alexander Leighton; and being Apprehended, safely to keep him in Custody, until his Majesty shall receive Notice thereof, and shall give further direction concerning him. He is a Man of low Stature, fair Complexion; he hath a yellowish Beard, a high Forehead, between forty and fifty years of Age.

This Hue and Cry followed him to *Bedfordshire*, where he was Apprehended, and brought again a Prisoner to the *Fleet*. Concerning whose Escape, and executing of the Sentence upon him afterwards, the Bishop of *London* in his Diary on the Fourth of *November*, makes this Memorial, *Viz.*

‘*Leighton* was degraded at the *High-Commission*, *Tuesday* the 9th of *November*; that night *Leighton* broke out of the *Fleet*, the Warden says he got or was helped over the Wall, and moreover professed he knew not this till *Wednesday* noon, he told it not me till *Thursday* night. He was taken again in *Bedfordshire*, and brought back to the *Fleet*, within a Fortnight. *Friday*, *November* the 16th, part of his Sentence was executed upon him in this manner, in the *New Palace* at *Westminster*, in Term time:

1. ‘He was severely whipt before he was put in the *Pillory*.
2. ‘Being set in the *Pillory*, he had one of his Ears cut off.

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3. 'One Side of his Nose slit.

4. 'Branded on one Cheek with a red hot Iron, with the Letters 'S. S. signifying a *Stirrer up of Sedition*, and afterwards carried 'back again Prisoner to the *Fleet*, to be kept in close Custody.'And on *that day seven night*, his Sores upon his Back, Ear, Nose, 'and Face being not cured, he was whipt again at the *Pillory* in '*Cheap-side*, and there had the Remainder of his Sentence executed 'upon him, by cutting off the other Ear, flitting the other Side of 'the Nose, and branding the other Cheek.

The severe Punishment of this unfortunate Gentleman many people pitied, he being a Person well known both for Learning, and other Abilities; only his untempered Zeal (as his Country-men then gave out) prompted him to that Mistake, for which the Necessity of Affairs at that time required this Severity from the hand of the Magistrate, more than perhaps the Crime would do in a following Juncture.

Afterwards those who procured his Escape were taken and brought into the *Star-Chamber*, and proceeded against, *Viz.*

Attor. Regis
Ore tenus
versus
Levingston &
alios.

Star-Chamber

The Defendants practising with one *Leighton*, a notable Offender, to procure his Escape out of the *Fleet*; *Levingston* put off his Cloak, Hat and Breeches, being all of a Grey colour, and *Anderson* his Doublet, and *Leighton* put theirs on, and in that disguise they all went out of the *Fleet* unsuspected; but was afterwards taken again, and for these Offences, and respect had of their Penitency, they were only *fined* 500 *l.* apiece, and committed to the *Fleet* during the King's pleasure.

A new Office
of Receiver.

In *Trinity Term* this Year the King wrote Letters to all the Justices and Barons of the *Exchequer*, to consider of Orders for the better execution of the new Office of Receiver and Collector of Fines and Forfeitures, granted to *John Chamberlain* his Majesty's Physician, and *Edward Brown* Esquire, by King *James*, and confirmed by his Majesty; and after hearing the *Patent* read before the Judges, and consideration had thereof, they writ to the Lord Keeper and Lord Treasurer as followeth.

Right Honourable,

The Judges
Opinions con-
cerning that
Office.

'YOUR Lordships may be pleased to be informed, that we lately received his Majesty's Gracious Letters of 13 May last, directed to 'us his Justices of either *Bench*, and Barons of the *Exchequer*, and to 'his Attorney-General, thereby requiring that whereas He had lately 'confirmed to *John Chamberlain* his Majesty's Physician, and to *Edward Brown* Esq; the Office of Receiver and Collector of Fines and 'Forfeitures, lately erected by his late Father of blessed memory, that 'we should assemble our selves, and sit down and publish such and so 'many Orders for the execution of the said Office, as to Law and Ju- 'stice should appertain, and should be thought requisit and necessary: 'according to which his Majesties Command, We did assemble toge- 'ther, and upon hearing his Majesty's Gracious Directions read, did 'apply our selves to the due performance of them. But so it is (may it 'please your Lordships) that upon consideration taken by us of the 'said *Letters Patents* to the end aforesaid, we found it would prove

‘a great difficulty for us to frame or devise Orders for the Executi-
‘on of them, for that it doth appear to us that they are both against
‘Law and his Majesty’s Profit: We therefore thought it our Duties
‘according to our Oaths, to proceed no further in this business un-
‘till we had made his sacred Majesty acquainted herewith, and for
‘that purpose we addressed our selves unto your Lordships, as unto
‘Counsellors of great Trust about his Majesty, to present this our
‘Intimation unto him, that by your Honours means we may know
‘his Majesty’s further pleasure herein; and for your Lordships bet-
‘ter Information herein, we do hereby present unto your Lordships
‘a short and brief Note of the Excesses and Irregularities of the said
‘Letters Patents.’ The Exceptions were set down by way of *Arti-
cles*, and after all the names of the Justices and Barons subscribed,
there were two of them, one for either Lord, and directed to them
on the outside as Letters.

Shortly after the King of *Sweden* signed the Agreement with the
Marquess of *Hamilton*, he thought fit, before he crossed the *Baltick-
Sea* with a Fleet, to come in person with an Army into the Bounds of
the Empire to declare himself under publick protestation, ‘That he
‘meant no Hostility unto the Empire, or Person of the Emperor:
‘Declaring further that his coming was principally to Relieve that
‘Distressed Prince, his Cousin and Confederate the Duke of *Stetin*
‘and *Pomeran*, who at that time, and for three years before, had
‘bin injuriously oppressed by the Emperor; That he was not only
‘engaged by ancient Alliances and Confederacies to aid the State of
‘*Pomerland* (thus distressed, spoiled, taken and disarmed,) but it
‘concerned him also in point of State and good Policy, not to suf-
‘fer the Duke’s Enemy to be Master of those Coasts of the *Baltick-
Sea*, whence he might at pleasure infest *Sweden*, and at his leisure
‘and opportunity invade it. That his League with the said Duke
‘was Defensive only, and not for any Offensive War against the
‘Emperor.

The King of
Sweden de-
clares the
Causes of his
expedition in-
to *Germany*.

These Complaints, Aggrievances and Provocations of the King of
Sweden were in fair and respectful manner, by Letters first presented
to the *Emperor*, and when that course brought no Redress, then for
justification of his Proceedings, and by way of Apology, were the
Circumstances enlarged; and the whole printed for the World to
judge. In which his Majesty of *Sweden* farther Declared; ‘That ha-
‘ving been by his oppressed Neighbours and Confederates invited to
‘their relief; He for a long time rather expected the *Emperor*’s good-
‘ness towards the Subjects of *Germany*, than desired to interest him-
‘self against him, with whom he so much wished the continuation of
‘Amity. That the Quarrel was first begun by the *Emperor*, who in
‘the late Wars of *Prussia*, between *Sweden* and *Poland*, had prohi-
‘bited the King of *Sweden* to make any Levies of Men, or provision
‘of Victuals, or Ammunition in *Germany*; apparently granting the
‘same liberty unto his enemy, the King of *Poland*. That the Empe-
‘ror himself had heretofore sent two several Armies under his own
‘Ensigns into *Prussia*, in the aid of the *Pole*, his Enemy. The
‘first in the year 1627, under the Command of the Duke of *Hol-
stein*, and the second 1630, conducted by *Arnheim*, Marshal
‘of the Field unto *Wallestein*. That his Courier riding Post with

An. 1630.

his Packets, hath been stayed; His Letters unto *Bethlem Gabor* opened, and false Copies published of them; That his *Embassadors* had been flighted, not admitted to Audience, nor vouchsafed an answer; forbidden to stay in *Germany*. That upon the seeking of Peace by mediation of the King of *Denmark*, he obtained nothing but affronts and delays: and that writing to the College of *Electors*, then assembled at *Lubeck* 1629; he found in their Answers by their Letters the main point of the business not once toucht upon; and so no remedy that way neither.

That the poor Town of *Stralsund*, notwithstanding it had no way wronged the *Emperor*, and had received Asseverations and Promises of protection from the *Emperor*, yet had it been block'd up by *Wallenstein*, Duke of *Freidland*; and the Island of *Rugen*, lying in the Sea, right against it, taken by the said *Freidland*. That the Town and Island aforesaid (his Confederates) had often complained unto him of this Injustice, and desir'd his peaceful Mediation first, and his armed Assistance afterwards. That considering how things stood betwixt the *Emperor* and *Himself*, it much concern'd him not to suffer that *Island* and *Town* to be possessed by his Enemies, seeing they lie so commodiously for the Command of the *Baltick-Sea*, and so dangerously for infesting the Coasts of *Sweden*, which lie right against it: that the *Emperor* had actually molested those Coasts with Shipping, which he had newly gotten from *Dantzick*; and other *Hans Towns* thereabout had hindred the *Swedish* Trade and Merchandizing upon the Coasts of *Germany*.

After the King had been several weeks with his Army at Sea, he landed about the midst of the Month of *June* this year at a Dorp or Village in the Isle of *Usedom*, not far distant from *Stralsund*; and presently intrenched himself. After him landed his *Colonels* and *Commissioners* with their respective Regiments. And upon the second of *July* the Cannon, Baggage, &c. landed; and two days after the whole *Cavalry*.

The 5th and 6th of *July* *Embassadors* came to the King from the Duke of *Mecklenburg*, *Pomeran*, and the Town of *Stralsund*; and the *Imperial Forces* were in a short time driven out of that *Island* by Colonel *Alexander Lesley*. It was the 26th of *July* before the King transported his Army from that *Island*, to *Stetin*; being forc'd to bring them up the River *Odor*, and landed his Men within an English mile of that place; where the King drew his Forces in *Battalia*; and *Grave Neeles*, and the Lord *Rea* a *Scottish-Man*. Their Regiments had the Van-Guard in their march to *Stetin*, which being summoned to let the King of *Sweden* enter into the City, they then in the City seemingly desir'd to stand neutral; but the Army drawing close about the Town, they yielded; And the King sent Forces to besiege *Colbergen*, a strong Port Town upon the *Baltick-Sea*, and imployed his other Forces to take in Forts and Castles in *Pomerania* and *Mecklenburgh*, of which we shall speak more particularly in the next Year 1631, when the Marquess of *Hamilton* did land his Army in *Pomerania* to assist the King of *Sweden*.

The King after the Arrival of Marquess *Hamilton* with the Conditions aforesaid, wrote to his Sister the Queen of *Bohemia*, to give her Assurance that he would hasten the Marquess of *Hamilton* with an Army of 6000 Men to assist the *Swede* in order to her Service; and also

The King of
Sweden lands
his Army up-
on the Coast
of *Pomeran*,
June 1630.

Stetin surren-
dred.

The King writeth to the Q.
of *Bohemia*.

also acquainted her, That he had good hopes to prevail with the Spaniard by a Treaty (then in hand) to get the Palatinate restored; at which the Queen was highly dissatisfied, knowing by sad Experience, how the Spaniard had abused and delayed her Father King James in former Treaties. Whereupon the King to pacify her Passion against the Spaniard, wrote her this ensuing Letter.

My only dear Sister,

Having found that my last hath troubled you more than I could have imagined, (for I did suspect that at the first it would a little startle you, before you had well considered of it; but upon debate, I thought you would not have still remained unsatisfied, as I see you are) I would stay no longer from giving you satisfaction (as I hope) in some things which without doubt you mistake. But first give me leave to tell you, that it is impossible in this unfortunate Business of yours, either to give or take a Counsel absolutely good; but whosoever makes you believe otherwise, deceives you; so that the best counsel in this, being but the best Ill, must have many Objections against it; therefore I will not undertake a Disputation, but clear those things (if I spoil not a good Cause in the telling) which you apprehend to be most prejudicial unto you, which (as I take it) is, That if I make a Peace with Spain, it will both hinder the Assistance of our Friends, and lay my Arms asleep for doing you Service. As for our Friends that can do us most good, (I mean France and the United Provinces) they cannot be further from doing you good than now they are. What the cause is I cannot say, but what it is not I can: for notwithstanding my Treaty with Spain, I have pressed them both, the one for making a League for the Palatinate, and Liberty of Germany: that that is made to that same purpose (which indeed was the true intent of it) they both deny, though in a diverse fashion; so that the Treaty of Spain is not the cause. As for Sweden, I confess he is to be heartned and used as much as may be; but I will assure you, I shall be the better able by a Peace with Spain, to help and hearten him. Now for me, I am so far from forgetting or leaving your Interests in my peaceable disposition; That Spain not only promiseth as much as I can ask for his Part for your entire Restitution, but confesseth, That if his Performance answereth not his Words, I have a just Cause to renew the War upon him; so that when I have opportunity, I shall not want a just Quarrel even with Spain by his own Confession; and in the meantime, though the Peace be made, I shall not rest, but do what lies in me to engage my Friends in an Offensive and Defensive League for the Palatinate and Liberty of Germany. Lastly, Whatsoever may be informed you, or your Husband, the Peace of Spain is so far from being concluded, that as yet I have not seen a Draught of the Articles; and I earnestly intreat you to believe, that what I shall do in this, shall be chiefly to do you the best service that may be; and as I shall proceed in this, you shall have a true account, as on my Credit you have had hitherto; assuring you that howsoever change of Affairs may alter Councils, my Actions shall ever prove me to be.

Your Loving Brother to serve you,

Charles R.

And

6 Caroli.

The King's
Letter to the
Queen of Bo-
hemia.

An. 1630.

The King grants the Marques the Custom of the Wines in Scotland.

The Marques hastens to Scotland to raise his Men.

The Marques intends to return to Court.

The Lord Ochiltry at Court when the Marques of Hamilton arrived there.

The Marques of Hamilton accused of high Treason.

And to enable the Marques to raise his Men, and transport them with all Military Provisions and things necessary, the King granted unto him a Lease of the Customs of Wines in *Scotland* for sixteen Years; upon which Security the Marques and his Friends raised as much Money as carried on the Design.

Hereupon the Marques hastens into *Scotland*, in order to the chusing of his Officers, and raising of his Men; and in the first place, fixed on the Lord *Rea* a Scottish Lord, a Person of great reputation for a good Souldier, who chearfully accepted of that Employment under the Marques for that Expedition, notwithstanding that he had then considerable Commands in the *Swede's* Army. The Marques employed the said Lord *Rea*, together with *David Ramsey*, into *Holland* to endeavour to get some good Officers there, and to dispose the States of the *United Provinces* for the King of *Sweden's* Service. But that State perceiving that the King of *Great Britain* did not publicly raise those Men that were to go under the Marques, but in a private manner, refused to give any Assistance, till his Majesty of *England* did more formally and publicly declare himself.

After the Marques had levied his Men in *Scotland*, his Officers were employed to train the Souldiers that were levied, and he prepared himself against the Spring in the next Year, to return to the Court in *England* to receive the King's Order for the Imbarquing of his Men, and to understand what Levies were made in *England* whilst he was in *Scotland*; that the Souldiers levied in both Kingdoms, might meet at a certain Rendezvous, which was designed to be at *Tarmouth*, in order to their Transportation.

Towards the end of this Year, the Marques of *Hamilton* arrived at the Court of *England*, where was at that time *Mackay Lord Ochiltry*, a Lord in *Scotland*, by name *Stuart*, and who once bore the Name of the Earl of *Arran*, when by a Parliament which contracted a *by-Name* in that Kingdom, the *Hamiltons* were attainted of Treason, but afterwards both Blood, Honour, and Estate were restored to them. This Lord had no kindness for the Marques of *Hamilton*, but nourished a Discourse, which *Ramsey* let fall to the Lord *Rea* when they were beyond Seas; and prevailed so far with the Lord *Weston*, then Lord High Treasurer of *England*, as to impart the Business to the King, being a Treason of an high nature (if true) to this effect; *That he raised this new Army, with design when he was at the head of them, to set himself up as King of Scotland.* Much credit was given to this Design by the Lord *Weston* Lord High Treasurer, who endeavoured to persuade the King not to permit the Marques to come near his Sacred Person, and in no kind to have the privilege to lie in his Majesties Bed-Chamber, lest his Majesties Life were hazarded thereby.

The Lord *Weston* pressed this home unto the King, but his Majesty kept his thoughts private to himself; and having a great Affection to *Hamilton*, as soon as he came into his Presence, imbraced him with great kindness, and discovered to him what he was accused of, but said, I do not believe it; and that the World may know I have a confidence in your Loyalty, you shall lie in my Bed-Chamber this Night. But the Marques beseeched his Majesty to excuse him, till he had received a Trial, and was cleared of the Treason he was accused of; but

But the King would receive no denial, yet told him he would put the business into a way of Examination; but afterwards when the Examination was taken, it was found that the one affirmed the Accusation to be true, and the other as positively denied it, and that there appeared not then any concurrent proof of the same.

A report of these Examinations was afterwards made to the King's Majesty, who was graciously pleased to refer the whole matter to a Tryal before the Lord High Constable, and Earl Marshal, in the Court of Honour, of which the Reader will have a full account towards the end of the next Year in its proper time and place. In the mean time the King caused *Rea* and *Ramsay* to be secured in order to that Trial: so the Marquess proceeded in making Provisions for the embarking of his Army, and ordering those Forces in *Scotland* to be in readiness to be shipped, to come to the place of Rendezvous when they received Orders.

At this time there were great Affairs transacted in the Parliament (or Diet) at *Ratisbone* in *Germany*, of which take a brief Account; whither were sent an Ambassador from the King of *Great Britain*, as also another from the *Elector Palatine*, (accompanying the *English* Ambassador.) The Passages and Circumstances attending that Imperial Diet were as followeth.

At the time of the opening of this Diet all Parties were weary of the War, and the Emperor himself had enough of it; for the War had continued from the Year 1618 (in which year the great Blazing-Star appeared) unto that time in a most bloody and cruel manner, insomuch as utter desolation was brought upon one of the most flourishing Countries in the World, which the Emperor wisely considered with himself, that if those heavy Impositions should be continued to maintain a standing Army, and those Violences, Injuries and Outrages should be again committed by the Soldiers of the Empire under *Wallenstein*, which had so disgusted the People against the Emperor; and if other Wars should thereupon ensue, the Chances whereof might happen to be uncertain, and the event in the end fatal: And further, that if at this Diet things unreasonable should be proposed unto him by the Confederate Protestant Princes, if he did refuse their desires upon just grounds, he should thereby oblige the Confederate Princes of the Catholick League the more firmly to assist him, than if he should refuse the calling of a Parliament (or Diet) and act upon his Imperial Authority.

The Princes of the Catholick League, as also the Catholick party, seemed very desirous of this Diet, having, as well as the Protestants, shared in the insolencies of the Imperial Soldiers under *Wallenstein*, and of the charges of the War; and the more moderate sort of Catholicks were much dissatisfied at the Covetousness of the Duke of *Bavaria*, for his pressing the Emperor so hard to confer the Electorship and Patrimony of the Prince Elector Palatine upon him, as a reward for his Services, they conceiving this action of disinheriting a Prince of so great Interest and Alliance, would, at one time or other, raise up friends that might disturb the Peace of the Empire; wherefore they wished the Emperor would rather confiscate the Estate for life, as a punishment for the Father's Offence, than to disinherit the Children, who were innocent of their Father's forward and rash undertaking, as they termed it.

6 Caroli.

Notwithstanding the King commanded him to lie in his Bedchamber.

The Dyet at *Ratisbon*.

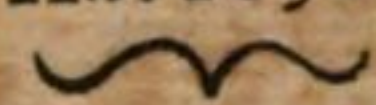
The Emperors inclination for a Peace.

The Princes Catholick for a Diet.

And dissatisfied with *Bavaria* to covet the *Palgraves* Patrimony.

Those

An. 1630.



The Princes
Protestant
long for a
Peace.

Private Re-
solves of the
Emperor, from
what things
not to recede.

The Emperor's
Proposal at the
Diet as to the
Palsgrave.

Those of the Catholick League expressed themselves as to the said Diet, That though they did much desire it, yet their hopes were that the Emperor would never consent to let the Protestants go away without restitution of the Church Lands and Goods, which they pretended the Protestants held from them.

The Princes of the Union and Protestant Party, were no less thirsty of Peace, having undergone the greatest of all hardships, being most of all overlaid with heavy Impositions, and with the Billeting of Soldiers of the Catholick League, and were desirous that there might be an absolute Oblivion of all things by-past, and the Empire settled in a firm Peace. Great Joy therefore was throughout the Empire, expecting that there would be an end of further War, and a firm and settled Peace concluded at this Diet. But there wanted not those, who did insinuate unto his Imperial Majesty what was fit for him to insist upon at the meeting of the Diet, from which it was not fit for the Emperor to recede; Amongst which one was,

1. That he should in no wise consent to a settlement until the Protestants should restore the Church-Lands and Goods unto the Catholick party.

2. Not to diminish his Army, but in a small proportion, that he might keep up his Power by force and a strong hand, lest the Deposed Princes, and others, should upon any opportunity of advantage, revenge themselves upon the Emperor.

3. And therefore resolved to keep up his Army, and not to restore the Prince Elector Palatine to his Dignity and Patrimony.

Notwithstanding all opposition, the Emperor met at the Diet; he represented unto the Princes then assembled, that he was not the cause of so cruel a War as had been, nor would be a hinderer of the Peace, imputing all the mischief that fell out upon the War, unto the *Palsgrave*, *Count Mansfeldt*, *Brunswick*, and the King of *Denmark*, and that it was high time to think of a firm and settled Peace: But as to the *Palsgrave*, he proposed to the Diet to pass an Act, that he should continue a *Banished Man*, without all hopes of returning; and that they would never vouchsafe to entertain Peace or Amity with him.

That the *French* were concluding a League with the King of *Sweden*; and though there were causes of Enmity between Him, the Emperor, and the King of *Swedeland*, yet if the King of *Sweden* would not condescend unto the *Imperial Ambassadors* and the King of *Denmark's* Mediation for a Peace, he was to be threatned with the Power of the *Roman Empire*, and to be chastised by Force of Arms.

Lastly, His *Imperial Majesty* proposed that the Princes would consult to provide Money for maintaining a standing Army; for restoring of Martial Discipline, and of the manner of laying and levying Impositions.

In Answer to the Proposals of the Emperor, the Princes Electors laid open the general Grievances and Miseries of the Empire, the Outrages committed in the War, and excessiveness of the Impositions; and as the Emperor laid the fault upon the *Palsgrave*, the *Electors* laid the fault of all the misery that had happened, upon the new Duke of *Mecklenburgh* (*Wallestein*) General of the Emperors great Army, to whom his Imperial Majesty had given such a large Commission

Commission, without the consent of the Princes of the Empire (as never before him any Man had) That the Impositions which by the Laws of the Empire had wont to be assessed by the joint consent of the Princes, had at the pleasure of the said Duke of *Mecklenburgh* bin imposed, and most rigorously exacted; insomuch that the Elector of *Brandenburgh* had in a few years bin forced to contribute about *Twenty Millions of Florins*. The Duke of *Pomerland* complained, that *Ten Millions* was paid out of his Principality of *Stetin*, all in one Year only; besides other Charges and Expences with the Rabble of the Army.

6 *Caroli.*

The like complaint came from other Princes. In conclusion, the said Electors did more particularly fall upon the said Duke of *Mecklenburgh*, pressing the Emperor to cashier him, and to disband his Army, and to have Peace made with the *French King*, and the Princes of *Italy*, and with the King of *Swedeland* also.

The Complaints both of the Protestant and Catholick Princes were so many and very great against *Wallenstein*, and the Insolencies of his Soldiers in their Quarters, and of his Commissaries in their bold levying of Money upon the Empire, as that the Emperor had nothing to say for him, but consented to their Desires, that his Command should be taken from him. And two Barons of the Empire were sent to him, with the Proposals of the *Diet* presented to the Emperor, and the Emperor's Resolution thereupon, that he should deliver up his Commission.

The Emperor consents.

All Mens Minds were full of expectation what the event of this Message to a General so Potent, and an Army so Rude, should produce: But contrary to all imagination, *Wallenstein* complied with the Emperor's Command, left his Army and went to *Nimwegen*, where he remained as a private Person.

Wallenstein lays down his Commission.

The Electors having prevailed as to his Removal, proposed also unto his Imperial Majesty further to declare his purpose, that no War should be made upon any without the consent of the Princes, and that no Imposition should hereafter be levied at the pleasure of the General of the Army.

The Electors having obtained a safe Conduct of the Emperor for *Rusdorfe*, Ambassador of *Frederick* Prince Elector Palatine, he came to the *Diet*, in the Company of Sir *Robert Anstruther* the King of *Great Britain*'s Ambassador, who much pressed for Audience, about the time that News came how the King of *Swedeland* was active in *Pomerland*, which made most of Opinion his Landing would contribute to get Restitution of the said *Elect*or Palatine to his Dignity and Patrimony. And Audience being granted to the *English* Ambassador, he thus delivered his Errand.

Sir Robert Anstruther.

'That nothing could affect (his Master) the King of *Great Britain* more, than the consideration of the daily Calamities undergone by his Brother-in-Law the Prince Elector, his Wife and Children. 'That no Place was more expedient to Treat of Peace, Reconciliation, and Re-establishment than in the *Diet*; therefore he made it his ardent Request to his Imperial Majesty, That having regard to the many Intercessions of his late Father, and other Kings and Princes, he would remit the Displeasure conceived against his Brother, and recal the Proscription issued out against him.

The English Ambassador gets Audience.

An. 1630.

‘ True it was, his Brother had offended, and was inexcusably guilty, unless the rashness and precipitation of Youth might somewhat plead for him; but others had bin as culpable, whom yet his Imperial Majesty had received into Favour.

‘ And would he be pleased to extend to him the same Clemency, it would oblige his Master to demonstrations of the greatest Gratitude, and raise a glorious Emulation in others, to imitate so excellent a Pattern.

‘ That the *Palsgrave* would entertain his Favour, with an Heart so firmly devoted to his Service, so as all the Intentions of his Spirit should be disposed to Compensation and Reparation of his former Miscarriage.

‘ That his Majesty held nothing so dear as the Affection of his Imperial Majesty, and establishment of a durable Peace between them; And as upon all Occasions he hath been forward to represent himself solicitous for it, so at this time he was ready to give more ample Testimony, if his Imperial Majesty was pleased to incline to a Treaty.

All this being fair and full of respect, gained Civilities to the Ambassador: but it was answered,

The Emperor's Answer.

‘ That the present Affairs of *Germany*, which occasion'd the *Diet*, were so important, as not to admit of any Foreign Debate; and yet upon opportunity and leisure, the King of *Great Britain* should receive such satisfaction as would be agreeable to their Honour, and Confidence his Majesty had in him.

Treaty of Peace broke off between the Emperor and the King of *Swedeland*.

Presently after this Audience of the King of *England's* Ambassador, more particular News was brought, That the Imperial Ambassador was returned from the King of *Sweden* without any hopes of Peace, and that the King of *Swedeland* had in *Pomerland* made himself Master of *Stetin*, and put the Imperial Forces to flight.

Now the Catholick Princes appear for War.

And now the Catholick Princes, who before seemed very desirous of Peace, (fearing some private Conjunction was made with the King of *Swedeland* by other Princes) disposed the Emperor to prosecute the War, and lay Impositions proportionably upon them of the Catholick League.

A design to make *Ferdinando* the Emperor's Son, King of the *Romans*.

It is to be observed, that during all the time of the *Diet*, *Cæsar* made no other Propositions than what he did at the opening thereof; Yet underhand it was suggested by those near the Emperor, what Miseries might befall the Empire in case of an *Inter-Regnum*, magnifying *Ferdinando* King of *Hungaria* Son of the Emperor, and how acceptable it would be to the Empire, if at this *Diet* he was chosen King of the *Romans*, which is as much as Heir apparent to the Empire. The Protestant Electors having no inclination thereunto, in answer to those which made this Proposal, much commended the Emperor for his care of the Common-Wealth, but that it was contrary to the Laws of the Empire at this time to consent thereunto.

This being not mentioned as a particular Cause for the calling of this *Diet* to create *Ferdinando* King of the *Romans*: And also for that by the Laws of the Empire, *Frankfort* is the place appointed for the Election

Election of the King of the *Romans*; and thus they excused the Matter, but it was resented by *Cæsar*; and from that time he proceeds with severity as to the Church-Lands, and decreed at this *Diet*, 'That those Gentlemen of the *Upper and Lower Palatinate, Frankenholtm*, and other Countries, who had born Arms under Count *Mansfeld*, Duke of *Brunswick*, and others, that their Estates should be condemned as confiscated. And with the Profits thereof, the Emperor did gratify his Privy-Council and others with Pensions for a reward of their Services.

The Protestant Electors, and other Princes, protested against these Proceedings of the Emperor, claiming those Gentlemen to be within their Dominions, and that the Forfeitures of those Fees and Estates which *Cæsar* had now confiscated into his own Coffers, did by the favour of former Emperors, and long continued Customs, belong to the said Princes. Urging further to the Emperor in favour of those Persons (whose Estates he had confiscated) the Example of other Princes, who even upon the like occasion did pass by many Crimes, to procure a settled Peace in their Dominions; and amongst others instanced in *Cosmo de Medicis* Duke of *Florence*, a most wise Prince, who in cases of Disturbance in his Dominions always left the Estate of such as were Attainted, unto their Children, or next Kindred, after the Death of the Offender.

Yet the Emperor hearkned not thereunto, but declar'd, That he could not in Honour and Justice but make remarkable Examples of those that had born Arms against him, that it might be a Terror to others for the future.

And as for the Church-Lands, he had already design'd with himself that they should be restored to the Catholics, and published the same by Proclamation, and that he would not recede from what he had done. And then proceeded to a Decree and Sentence against the Duke of *Wirtemburgh*, the Marquess of *Brandenburgh*, the Count of *Hohen* and other Princes, who were by the Decree commanded to quit Church Lands and Goods, which for eighty Years they had enjoyed, by virtue of the Agreement they made at *Passaw*, Anno 1555.

In which Decree it was declared, That the Violaters of that Agreement of *Passaw*, should be adjudged as Enemies to the Empire.

Notwithstanding this proceeding of the Emperor, the Catholick Princes (to all outward appearance) did very earnestly desire to compose the Business of the Church-Lands, but were importuned by the Jesuits against any Compliance (by whose means was likewise a rigid course taken at this *Diet*) for the Reformation of Protestant Churches and Schools, and for the forbidding of the *Augustine* Confession to be exercised by the *Lutherans*.

On the third of *November* the *Diet* broke up, leaving Matters in a far worse condition than it found them, for that Men now perceived their very Hopes to be taken away, as their Liberty and Goods had bin before.

The Catholick Princes before the *Diet* broke up (being still inclinable to a compofure of the Business of Church-Lands) did prevail with the Emperor, that the *Diet* might meet again at *Frankfort* upon the Main, in *August* following, for ending those Differences.

In the mean time the Protestant Princes entred into a Consultation for their own Safety, plainly seeing the Jesuitical Party too prevalent with

6 *Caroli.*

Some of the Princes Estates declared to be confiscated.

The Protestant Princes Protestation against it.

The Emperor will not hearken to the Protestant Princes.

Decrees that they shall quit the Church-Lands.

The Jesuits solicit against the Compliance.

The *Diet* broke up.

Nevertheless the Catholick Princes prevailed for a *Diet* at *Frankfort*.

And the Protestant Princes for a *Diet* at *Lipswick*.

An. 1630.



with the Emperor; and they agreed upon a Letter to be written by the Duke of *Saxony* to his Imperial Majesty, taking notice that there had bin a Conference between the Protestant and the Catholick Princes at the former *Diet* concerning Church-Lands, and that the further Treaty thereupon was referred unto a *Diet* to be held at *Frankfort* in *August* following, and therefore besought his Majesty to give liberty to the Protestant Princes to hold a *Diet* by themselves in some convenient Place, that so by their united Council, they might be provided with an Answer to the Catholic Princes, at their meeting in the *Diet* at *Frankfort*, concerning the said Church-Lands. The Address to the Emperor was recommended, with the Mediation of the Elector of *Mentz* and *Bavaria*; and the Emperor agreed to what was desired, and *Lipswick* was the place appointed for the meeting of the Protestant Princes, and the time was *Feb. 8.* then next following.

Duke of Saxony opens the occasion of the Meeting.

At the Time and Place appointed, all the Protestant Princes in *Germany* met in Person, or by their Deputies, but most in Person; and the Duke of *Saxony* laid open the occasion of their meeting.

1. 'How the Church might be with a good Conscience maintained in her ancient Liberty and happy Estate.
2. 'How to keep their Obedience to the Emperor, and yet preserve the ancient Constitution and Peace of the Empire,
3. 'How to maintain correspondency with the Catholick Princes in order to the Peace of the Empire.
4. 'What to answer for themselves, both in general and particular, as well concerning the maintenance of the Reformed Religion, as to the Emperor's Edict concerning Church-Lands, when they should come to meet at the *Diet* at *Frankfort*.

Protesting withal, That he would be ready to adventure Life and Goods in that Cause, and desiring every Man to give his counsel freely in such manner, as they might be able to render a fair account of it to his Imperial Majesty. And after some time of Debate, with one joint Consent, they did humbly complain to the Emperor what their Grievances were, and represented what would prove Remedies, and sent an Express therewith to his Majesty, and are reducible to these Heads.

Grievances laid open to the Emperor.

1. 'That the Golden Bull, or *Magna Charta*, and Constitution of the Empire might be firmly observed, which hath been violated by the Emperor's late Edict for the Restitution of Church-Lands, and through his Endeavours, to root out the Protestant Religion, which hath bin the main Cause of the late miserable Wars and Troubles.
2. 'They complained of particular Injustice done to particular Princes and Cities, by the violent taking away of the Church-Lands, as the Duke of *Wurtenburgh*, the Duke of *Brunswick*, the Prince of *Anhalt*, and others.
3. 'And that some were hindered in the Exercise of their Religion, as *Augustus* and *Frederick*, Princes Palatine, and others; and that forty eight had their Estates confiscated, as the Lady *Electrix Palatine*, and her Son *Lewis Prince Palatine*, the one being the Mother, the other the Brother of the King of *Bohemia*, and the Duke of *Mecklingburgh*,

lingburgh, &c. for whom the whole College of *Electors* had interceded in the last *Diet*, but prevailed not.

6 *Caroli.*

4. 'A complaint of the violent altering of the Feods of their Lands and Lordships, into which the Imperial Commissaries had by Force and Arms entered, changing the Tenure of the Tenants, and altering the Religion.

5. 'That their Lands have bin given to Souldiers, as if they had bin conquered.

6. 'That treble more Contributions have bin raised against no Enemy, than ever were when the *Turks* were in *Germany*; with many other Particulars. Concluding, That all this is contrary to the Oath of the Emperor, and unto the Laws of the Empire, the Privileges of the Princes, and against the Honour and Safety of the Empire; of which the several *Electors* and Princes had complained, and which by them were protested against in the late *Diet* at *Ratisbone*.

'Wherefore they now humbly Petition his Imperial Majesty to be relieved, protesting otherwise they are not able to endure the Burthen, but shall be inforced to defend their Persons, Consciences, Estates, and Subjects; resolving notwithstanding to continue their due Loyalty and Obedience to his Imperial Majesty; yet in the meantime to prepare for a War, in case the Matters complained of by them should not be redressed. This bore Date at *Lipswick*, *March* 18. 1631. and the *Diet* broke up upon *Palm-Sunday* following.

The substance of what they writ to the Emperor, they sent unto the three Catholick *Electors*, informing them, That War would undo all, that the Insolencies of the Commissaries and Souldiers were not to be endured.

Communicated to the Catholick Electors.

The Emperor not satisfied with their Address, and understanding their Resolution to levy Forces, (and hearing withal that the King of *Sweden* had advanced already through *Pomerland* in a victorious manner) put forth his *Imperial Ban* against the *Lipswick Legar*, peremptorily forbidding any place of the Empire to grant, either Relief, Passage, or Quarter unto any of their Forces; and commanding every Man to destroy, kill, and persecute, the *Lipswick Legar* as Enemies; withal tenders Pardon to as many as should come in; and forbidding all the Subjects of those Princes, upon pain of Death, either to contribute to their Levies, or to march under their Ensigns, promising the freedom of Conscience and Estates to all that should thus obey him, and turn both their Mony and their Persons towards the advancement of the Imperial Estate.

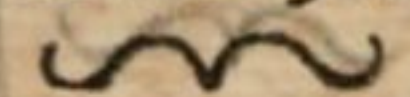
The Emperor puts forth his Imperial Ban.

The Protestant League was now noised abroad, and another meeting at the latter end of *May* at *Lipswick* was appointed. *Tilly* advances with his Army, and sends *Papenheim* to reduce *Magdenburgh*; of which more hereafter. But let us now return to *England*.

The Bishop of *London* had the honour, as Dean of the Chappel (my Lord's Grace of *Canterbury* being infirm) to Christen Prince *Charles* at *St. James's*. His Godfathers were the King of *France*, and the Prince *Electors*, represented by the Duke of *Lenox*, and the Marquess of *Hamilton*; The Godmother was the Queen-Mother of *France*, and her Person represented by the Dutcheß of *Richmond*.

The

An. 1630.



The King standing in need of a further supply, the business of *Knighthood* was retaken into consideration, and with care and diligence set on foot, being grounded upon an old Statute entituled *Statutum de Militibus*, which Statute tho' it had long slept, and was very ancient, yet was now put in execution as a Prerogative Statute, which occasioned many Pleas in the *Exchequer*, but to countenance the same a Proclamation was issued forth to this effect.

July 6. 1630.

Knighthood.

Commission to compound with such persons as did not appear to take the Order of *Knighthood* on them at the King's Coronation.

That whereas the King having formerly sent forth Writs to several Sheriffs of the several Counties for the summoning of all that had forty pound Land or Rent by the year, to appear at the day of his Coronation, and prepare themselves to receive the Order of *Knighthood*, did now award a Commission to certain Lords and others of his Privy-Council, to treat and compound with all those who then made default, as well for their Fines and their Contempt, as for their respite to take that Order upon them. Whereupon multitudes were summoned to give attendance at the Council-Chamber at *Whitehall*.

The Names of the Commissioners of the Privy-Council touching the Order of *Knighthood* were these.

Lord Keeper.

Lord Treasurer.

Lord President.

Lord Privy-Seal.

Lord High-Chamberlain.

Earl Marshal.

Lord Steward.

Lord Chamberlain.

Earl of Suffolk.

Earl of Dorset.

Earl of Salisbury.

Earl of Exeter.

Earl of Northampton.

Lord Viscount Dorchester.

Lord Viscount Wimbleton.

Lord Wentworth.

Mr. Vice Chamberlain.

Mr. Secretary Cooke.

Mr. Chancellor of the *Exchequer*.

Commissions directed into the several Counties.

Propositions for Compositions.

Likewise several Commissions were awarded into the several Counties, giving power of compounding with all persons, except the Nobility, who were ordered to compound before the Lords of the Council. The Commissioners had this main Instruction, "To take no less than after the rate of thrice and half as much as the Persons compounding were found rated in the Subsidy."

But there were many in all parts that neglected to appear, or refused to Compound. These were summoned by Messengers to the *Council-Table*, and were there told of severe proceedings in case of obstinacy. And divers put in their Pleas into the Court of *Exchequer* to be discharged from these Fines. But the Commissioners in the Country were to inform themselves of the true state of the Liveliness of each person, and to admit them to Composition in case they desired it, otherwise to let them know that upon return of Certificates, they must expect to undergo a legal Tryal in the *Exchequer*.

Pleas put in the *Exchequer* against *Knighthood*.

Sheriffs neglect to return the Names of persons.

And upon consideration of the prejudice done to this Service, by reason of the partial and negligent Returns made by the Sheriffs in most Counties, it was ordered, That Mr. Attorney General should proceed by Information in the *Exchequer* against such of the Sheriffs, as should appear to have been most negligent.

The

6 Caroli.

The Order of
Summons for
the Noblemen
to compound.

The Names of
the Noblemen
summoned.

A Warrant of
Summons a-
gainst Refusers
to compound
in the Country

The Order of Summons from the Privy Council, who were Commissioners, and directed to certain Noblemen to appear in order to a Composition, was to this purpose.

Whereas his Majesty hath already sent divers Commissions in-
to several Counties of this Realm, for compounding with
such as had not taken *Knighthood* at his Coronation, thereupon a
great part of the Gentry of this Realm, and others of ability have
made their several Compositions: but it was his Majesty's Pleasure,
that such of the Nobility as had not taken the Order of *Knighthood*
at his Coronation, should be treated with and compounded with by
us the Lords and others of his Majesty's Privy Council: We there-
fore by his Majesty's Command, do hereby signifie and give notice
to your Lordships, that we have appointed the first day of the next
Term at nine of the Clock in the morning, to sit upon the said
Commission for compounding with you in the Council-Chamber:
wherefore we require your Lordships, or some authorized from
you to that end, to attend Us. The Summons was directed to

Lord Marques of *Winton*.

Earl of *Arundel*.

Earl of *Essex*.

Earl of *Huntingdon*.

Earl of *Peterborough*.

Earl of *Kingston*.

Lord Viscount *Say and Seal*.

Lord Viscount *Mountague*.

Lord *Brook*.

Whereas his Majesty is given to understand, that you whose
names are here underwritten, dwelling in the County of
, have either neglected to appear, or appearing, refused to
compound with his Majesty's Commissioners appointed to treat with
you in that behalf, for your not attendance at his Majesty's Corona-
tion, to receive the Order of *Knighthood*, according to the Law, you
being all, as we are informed, Men of good ability; at which his Ma-
jesty doth much marvel, considering that you cannot be ignorant how
legal this Demand is, and consequently how much the said Commis-
sion is in your favour, that nevertheless you should refuse to accept
of his Majesty's Grace therein: His Majesty notwithstanding out of
his accustomed Goodness, is rather willing that those who peradven-
ture more out of mistake, or ill example of others, than out of their
own wilful opposition to his Majesty's Service, have been herein
misled, should be reduced to conformity by fair means, and with
least charge or trouble to them, than by any compulsory course of
Law, which his Majesty in all cases between him and his People doth
in their favour desire to avoid as his last Resort: We are therefore
in Majesty's Name, and by his expresse Command, hereby to signifie
unto you, that his Majesty expects and requires you should (accor-
dingly within ten days next after notice hereof) make your repair
unto us at *Whitehall*, to the end that in pursuance of his Majesty's
pleasure, we may treat with you concerning your said Composi-
tion, before any further or more compulsory proceedings be had a-
gainst you.

Directed unto { *James Maliverer, Esq;*
William Ingleby, Esq; } in the County of *York*.
{ . . . *Moyser, Esq; &c.* }

The

An. 1630.

The like Warrant was directed to divers Knights and Gentlemen dwelling in other Counties.

At this time there happened a great Riot in *Fleetstreet*; and for the better discovery and apprehension of those Malefactors, who were Actors in the late insolent Riots and Murthers committed in *Fleetstreet, London*, upon *Friday* the 10th day of *July* a Proclamation to this Effect was published.

A Riot in
Fleetstreet.

‘ **W** Hereas upon *Friday*, the tenth day of this instant Month, upon the occasion of an Arrest then made by the Sheriffs Officers of the City of *London*, divers insolent Assaults and Tumults were made and raised upon the Constables and Watches of the City; whereupon much Blood was shed, and barbarous Murthers of divers of the King’s Subjects insued, and those Insolencies so long continued, and at last grown to such height, that there was an open and violent resistance and opposition made against the Lord Mayor of *London*, and Sheriffs of the City, assisted by some of the Trained Bands, necessarily drawn forth to suppress those Outrages, which were committed rather in a Rebellious than a Riotous manner. His Majesty having taken those Affronts to Justice, and to his publick Officers and Ministers, into his Princely consideration, and having already given a strict charge and command, for the Examination of those so bold and audacious Attempts, and finding by the return of those, whose pains have been imployed in that Service, that very few of the principal Actors can by their industry be yet taken or discovered; and his Majesty being, in a case of this extraordinary Quality and Consequence, resolved to proceed according to the strict rules of Justice, against all those who shall be found to be the Offenders, that by their examples others may hereafter be warned not to dare to run into the like: Wherefore the King doth will and command all his Subjects whom it may concern, especially the Chirurgions in or near the City of *London* or *Westminster*, who have, or since that day had, any hurt or wounded Men in their cure, that they and every of them upon their Allegiance to the King, and the duty they owe to the publick Peace of the State, and upon pain of such Punishments, as by the Laws, or by his Majesty’s Prerogative Royal can be inflicted upon them, for their neglect herein, do forthwith upon publication of this our Royal Pleasure, discover to the Lord President of the Privy Council, or to one of the Principal Secretares of State, the Names of all such persons as they know, or by probable conjecture do suspect to have bin Actors in any of those late Tumults, and cause them to be detained or apprehended, without expecting any further or other Warrant in that behalf; and by name that they apprehend or cause to be apprehended wheresoever they shall be found, Captain *Vaughan*, *Henry Stamford*, and one *Ward* an Ensign.

Afterwards *Stamford*, and others of the Rioters were Indicted and Convicted of Murders, and *Stamford* executed accordingly: Notwithstanding the Duke of *Buckingham* endeavoured to save his Life.

On the 28th of *September* the King taking into Consideration, the general scarcity and dearth of Grain and Victuals which was like to fall out in the Kingdom, declared his Pleasure and Commandment concerning

concerning the same by Proclamation, pursuant to a *Book of Orders* for preventing and remedying those Evils, grounded upon several Statutes made in the time of Queen *Elizabeth* and King *James*, and now ordered the reprinting of the same; wherein are particular Directions for suppressing the Abuses and Offences of *Ingrossers, Badgers, &c.*

6 Caroli.

Michaelmas, 6 Car. B. R.

This Term an Information was put in against *Vassal* in the *Exchequer*, for not paying the imposition of Currans, (which being 7s. upon the 100 weight) was brought to 4s. 10d. The Defendent demurred in the Court of *Pleas* to this Information; and the Cause so depending, *Vassal* denied to pay until the Court should adjudge it. Whereupon, inasmuch as the same Matter had been adjudged for the King before in the Case of *Bates*, when *Cook* was Attorney, and that Judgment stood in force, not avoided by Error; the Court ordered that the King's Possession should be continued, and *Vassal* should pay until other Order. And for not obeying this Order, he was committed to a Messenger of the Court, and for his Liberty brought a *Habeas Corpus*: On which Writ it appearing by the Return, that he was committed by a Court of Justice, upon their Act in Court, in a Cause properly in their cognizance, the Court did remand him to seek there for Justice, and so he went back to Prison by the Award of the Court.

Habeas Corpus
for Sam. Vassal
a Merchant.

Michaelmas, 6 Car. B. R.

John Selden was committed to the *Marshalsey* of the *King's-Bench*, for not putting in Sureties for his Good Behaviour. There were with him in the same Prison *Hobart, Stroud, and Valentine*. In the end of *Trinity Term, 6 Car.* the Sickness increasing in *Southwark*, the three last named made suit unto the Judges of the *King's-Bench*, to be delivered over to the *Gatehouse* in *Westminster*, to avoid the danger. The Judges thought it Charity, and by Writ to the Marshal of the *King's-Bench*, commanded him to deliver them to the Keeper of the *Gatehouse*, and sent him a Writ to receive them. Mr. *Selden* never sent unto them whilst they were in Town, but when they were all gone, made suit to the Lord *Treasurer* to move the King, that to avoid this danger, he might be remov'd to the *Gatehouse*; which he did, and sent a Warrant under his Hand to the Marshal, signifying his Majesties Pleasure to remove him to the *Gatehouse*; accordingly he was removed. Thereupon when the Judges came to Town in *Michaelmas Term*, they called the Marshal to account for his Prisoner Mr. *Selden*; and he presenting unto them the Lord *Treasurer's* Warrant by the King's direction, the Judges told him it would not serve, for he could not be removed but by Writ; and upon his Majesties pleasure signified it might so have bin done. And although the Judges were out of Town, yet the Clerk of the Crown would have made the Writ upon so good a Warrant, and it might have bin subscribed by the Judges at their return. And to avoid the like Error hereafter, the Court sent Justice *Whitlock* to the Lord *Treasurer*, to let him know that Mr. *Selden* never looked after any of the Court, but sought a new and irregular way to be removed without them. The Lord *Treasurer* made a very honourable Answer, That he would not move the King for Mr. *Selden* to be removed by this means, until he sent him word, on his credit, that it was a legal way; and told that Judge, that Mr. *Selden*

Octob. Michaelmas Term,
John Selden's Case.

Judges Exceptions to the Warrant sent by the Lord Treasurer.

An. 1630.

Acts of Bounty projected to be done by Dr. Laud Bishop of London, and most of them performed in his Life-time.

was at the Judges dispose to remove back when they would, for it was not the King's meaning to do any thing contrary to the Order of the Court, or their formal Proceedings: So Writs were sent this *Michaelmas* Term to remove the four Prisoners back again to the *Marshalsey*.

In the Month of *November*, the ensuing Acts of Bounty were projected to be done by Dr. *Laud* Bishop of *London*, and many of them performed in his Life-time.

1. **T**O build at *St. John's* in *Oxford*, wherein he was bred up, for the good and safety of that College.

2. To overthrow the Feoffments, dangerous both to Church and State, going under the specious pretence of buying in *Impropriations*.

3. To procure King *Charles* to give all *Impropriations* yet remaining in the Crown within the Realm of *Ireland*, to that poor Church.

4. To set upon the Repair of *St. Paul's* Church in *London*.

5. To collect and perfect the broken, crossing and imperfect *Statutes* of the University of *Oxford*, which had lain in a confused heap some hundred Years.

6. To settle the *Statutes* of all the Cathedral Churches of the New Foundations, whose *Statutes* are imperfect, and not confirmed.

7. To annex for ever some settled *Commendams*; and those, if it may be, *sine Curâ*, on all the small Bishopricks, for *Bristol*, *Peterborough*, *St. Asaph*, *Chester*, and *Oxford*.

8. To find a way to increase the Stipends of poor Vicars.

9. To see the Tythes of *London* settled between the Clergy and the City.

10. To set up a *Greek* Press in *London* and *Oxford*, for printing the *Library-Manuscripts*, and to get both Letters and Matrices.

11. To settle 80 *l.* a Year for ever out of Dr. *Fryer's* Land, (after the death of Dr. *John Fryer* the Son) upon the Fabrick of *St. Paul*, toward the repair, till that be finished, and to keep it in good state after.

12. To procure a large Charter for *Oxford*, to confirm their Ancient Privileges, and obtain new for them, as large as those of *Cambridge*, which they had got since *Henry* the 8th, and *Oxford* had not.

13. To open the great Square at *Oxford*, between *St. Mary's* and the Schools, *Brasen-nose*, and *All-Souls*.

14. To settle an Hospital of Land in *Reading*, of 100 *l.* a Year.

15. To erect an *Arabick* Lecture in *Oxford*, at least for his Life-time, his Estate as he supposed not being able for more, that this may lead the way, &c. The Lecture began to be read, *Aug.* 10. 1636. and was settled for ever.

16. Then to settle the *Impropriation* of the Vicarage of *Cudsdon*, to the Bishop of *Oxford*. *Wednesday, April* 19. 1637. and so the House built by the new Bishop of *Oxford*, Dr. *John Bancroft*, and settled for ever to that Bishoprick.

17. To get a Book in Vellom fair written, containing the Records which are in the *Tower*, concerning the Clergy. This Book he got done at his own Charge, and left it in his Study at *Lambeth* for Posterity, *June* 10. 1637. *ab anno* 20 *Ed.* 1. *ad an.* 14 *Ed.* 4.

18. To procure a new Charter for the College near *Dublin*, and a Body

Body of new *Statutes* made to rectify that Government.

19. A Charter for the Town of *Reading*, and a Mortmain of —

20. If he lived to see the Repair of *St. Paul's* near an end, to move his Majesty for the like Grant from the *High Commission*, for the buying in of Impropriations that he already had for *St. Paul's*, and then he hoped to buy in two a Year at least.

These things following the Bishop perfected in his Life-time, according as he had design'd, *viz.*

His building of *St. John's College*.

The overthrow of *Feoffments*.

Setled Impropriations in *Ireland*.

Began the Repair of *St. Paul's*.

Regulated the Statutes of *Oxford*.

Setled the Statutes of the Cathedrals, and annexed *Commendams* to them.

Set up a Greek Press in *London*.

Obtain'd a large Charter for *Oxford*.

Setled an Hospital at *Reading*.

Setled an *Arabick Lecture* in *Oxford*.

Setled an Impropriation on *Cudsdon*.

Obtained a Charter for the College near *Dublin*; and a Charter for the Town of *Reading*.

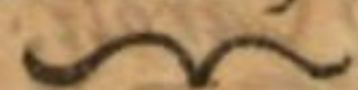
Consideration being had of a Proclamation in King *James* his Time; whereby, among other things, the insufferable Abuses committed by diverse Interlopers, Irregular Merchants, and disobedient Fishermen and Mariners, who were prohibited to Trade with the *Salvages* of *New-England*; did barter away to these *Salvages*, Swords, Pikes, Muskets, Match, Powder, Shot, &c. with which they destroy'd the *English* who sold those Weapons to them. His Majesty therefore by his Proclamation, bearing date the 5th of *December*, did then again prohibit such kind of Trade with those *Salvages* under great Penalties.

Against selling
of Arms, Am-
munition, &c.
to *Salvages*.

On the 5th of *December* came forth in Print, by publick Authority, *Articles of Peace*, Entercourse, and Commerce, concluded in the Name of the most High and Mighty Kings, *Charles by the Grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, &c.* And *Philip the 4th King of Spain, &c.* In a Treaty at *Madrid* the 5th day of *November* after the *Old Stile*, the Year of our Lord God 1630. This Peace was Proclaimed on *Sunday* the 27th of *November* with great solemnity, and two days after sworn unto at the Chappel at *Whitehall*; the King and the *Spanish Ambassador Don Carlo Coloma* went into their several Retirements whilst an *Anthem* was sung, and whilst the Dean, *Dr. Laud*, with three other Bishops, went up to the Altar with the *Latin Bible*, upon which the King laid his Hand; Secretary *Cook* having read the Oath, the King kissed the Book, and signed the Articles; which he delivered up to the Ambassador, and so passed to the *Banqueting-House* to a princely Entertainment.

And as to this Peace, the King declares that it is found meet and expedient, upon weighty Considerations moved to his Majesty by the

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intervention of some of his Friends, to lay aside Hostility with the King of *Spain*, and so to remove by fair and possible means, the cause of the War, which hath bred interruption to the Amity betwixt the two Crowns; which his Majesty doth accordingly make known to all his Loving People, that the said Peace and Friendship being so established, not only all Hostility and War is to cease on both sides from hence-forward, but also the former Trade and Commerce, as it stood in use and observance of the Treaty made by his Majesties blessed Father, is restored and confirmed between the said Kings, their Kingdoms, Territories, and Subjects, as well by Land and Sea, as Fresh-waters. The substance of the Articles are at large in the *Appendix*.

When this War was first begun with *Spain*, there was great hopes to have by force obliged that King to procure the Restitution of the *Palatinate*; but all that could be obtained after long Expence in War, was, That he would improve his utmost Interest in the Emperor, towards the Restitution of the *Prince Elector*.

On the 5th of *January*, his Majesty's Orders and Directions came forth publickly in print, together with a Commission for the better Administration of Justice, and more perfect Information of his Majesty, how, and by whom the Laws and Statutes tending to the relief of the Poor, the well ordering and training up of Youth in Trades, and the reformation of Disorders, and disordered Persons, were executed throughout the Kingdom; which his Royal Majesty commanded to be published and enquired of, by the Body of his Privy-Council, whom he had made Principal Commissioners for that purpose; which Commissions, Orders, and Directions, are inserted more fully in the *Appendix*.

It so happened, that at this time there was great fear of a *Dearth*, which the Lords of the Privy-Council taking into serious consideration, thought fit to write a Letter to the Lord-Mayor and Aldermen of the City of *London*, requiring an answer to these particulars following.

1. *What number of Mouths are esteemed to be in the City of London, and the Liberty?*
2. *What Proportion of Corn will suffice to feed that number by the Month?*
3. *What Places are provided for to conserve that Corn?*
4. *When the City intends to make their Provision?*
5. *What course the City takes to have the Provision well conserv'd against the time of Scarcity?*
6. *What stock of Money they provide for that purpose? and who shall be the Providers?*

St. Katherine's
Church Con-
secrated by Bi-
shop Laud.

St. Katherine Creed-Church being lately repaired, was suspended from all Divine Service, Sermons, and Sacraments, till it were Consecrated. Wherefore Dr. *Laud* Lord Bishop of *London*, on the 16th of *January*, being the Lord's Day, came thither in the Morning to Consecrate the same. Now because great Exceptions were taken at the formality thereof, we will briefly relate the manner of the Consecration, as also what the Bishop said in his justification, when he was afterwards questioned for the same in Parliament as an *Innovation*.

At

At the Bishop's approach to the West door of the Church, some that were prepared for it, cryed with a loud voice, *Open, open ye everlasting doors, that the King of Glory may enter in!* and presently the doors were opened: And the Bishop, with some Doctors, and many other principal Men, went in, and immediately falling down upon his Knees, with his Eyes lifted up, and his Arms spread abroad, uttered these words: *This Place is holy, the Ground is holy, In the name of the Father, Son, and Holy-Ghost I pronounce it holy.*

6 Caroli.

Then he took up some of the dust, and threw it up into the Air, several times in his going up towards the Chancel; when they approached near to the Rail and Communion Table, the Bishop bowed towards it several times, and returning, they went round the Church in Procession, saying the 100 Psalm; after that the 19th Psalm, and then said a Form of Prayer, *Lord Jesus Christ, &c.* and concluding, *We Consecrate this Church, and separate it unto thee, as holy Ground, not to be profaned any more to common use.*

After this the Bishop being near the Communion Table, and taking a written Book in his hand, pronounced Curses upon those that should afterwards prophane that Holy Place, by Musters of Soldiers, or keeping prophane Law Courts, or carrying Burdens through it, and at the end of every Curse, he bowed towards the East, and said, *Let all the People say, Amen.*

When the Curses were ended, he pronounced a number of Blessings upon all those that had any hand in Framing and Building of that Sacred and Beautiful Church, and those that had given, and should hereafter give any Challices, Plate, Ornaments, or Utensils; and at the end of every Blessing, he bowed towards the East, saying, *Let all the People say, Amen.*

After this followed the Sermon; which being ended, the Bishop consecrated and administred the Sacrament, in manner following.

As he approached the Communion-Table he made many several lowly Bowings, and coming up to the side of the Table where the Bread and Wine were covered, he bowed seven times, and then after the reading of many Prayers, he came near the Bread, and gently lifted up the corner of the Napkin wherein the Bread was laid, and when he beheld the Bread he laid it down again, flew back a step or two, bowed three several times towards it, then he drew near again, and opened the Napkin, and bowed as before.

Ceremonies
used by the
Bishop at the
Consecration
of the Sacra-
ment.

Then he laid his hand on the Cup, which was full of Wine with a cover upon it, which he let go again, went back, and bowed thrice towards it, then he came near again, and lifting up the cover of the Cup looked into it, and seeing the Wine he let fall the cover again, retired back and bowed as before; then he received the Sacrament, and gave it to some principal Men; after which many Prayers being said, the Solemnity of the Consecration ended.

It is not inconvenient I hope to transgress in point of time, by acquainting the Reader that this matter was some years after objected against the Bishop of London in Parliament, as an evidence of his inclination to introduce Popery, and these matters of Fact before recited were then proved before the House of Lords; to which the Bishop made a learned Defence, by endeavouring to justify the Consecration of Churches from the practice of Moses, Solomon, Hezekiah, and other Princes of the Jews, in the time of the Ceremonial

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nial Law. And that it is expressed in the *Old-Testament*, that the *Tabernacle*, with all the Vessels and Ornaments thereunto belonging, were all solemnly Consecrated by *Moses*; and afterwards when the Temple was built, it was solemnly Dedicated and Consecrated to God by King *Solomon*, and all his Princes and People; He also argued out of *Eusebius*, in the time of *Constantine* and other Christian Princes, of the Antiquity of Consecrating Churches, and then he descended more particularly to answer the Charge as to the Consecration of *Creed-Church*.

It was testified (saith he) that I came thither in a pompous manner. *I deny it, it was only in a grave and seemly manner*. It is objected, that as soon as I came within the Church Door I fell down upon my Knees; *True, it was no more than my Duty, being an Oratory. Moses and Aaron fell down on their Knees at the Door of the Tabernacle. Hezekiah and the People bowed and worshipped, as I have proved at large in my Speech in the Star-Chamber. And, O come let us worship and fall down before the Lord our Maker, is the common Introitus in our own and other Liturgies*. It is objected, I pronounced the Place and Ground holy; *I did so, and it is an ordinary and legal Speech, there being a Relative, tho' not an Inherent Holiness in Churches dedicated to God's Service*. Whereas it was said, I threw up dust in the Air, *This I deny*, and where it was alledged that this was in imitation of the *Roman Pontifical*; that (saith he) is a mistake: *for the Pontifical prescribes (Cinis) Ashes, not Dust to be cast abroad. For my Form of Consecration, Bishop Andrews made it, from whom I desired a Copy, and had it, which I observed*. It was objected that the form of Prayer I used, is in the *Mass-Book* and *Roman Pontifical*. It may be so, he replied, and many other very good Prayers are in it.

After the Bishop had made his Defence, a Reply was made by a Member of the House of Commons, appointed to manage the Evidence.

1. That *Moses* had an expresse Command from God himself to consecrate the *Tabernacle*, with all the Vessels thereof, by anointing them with Consecrated Oil, *Exod. 40. 10, 11, 12*. they being Types of Christ to come: But we have no such Command from God to Consecrate Churches, Church-Yards, Chappels, Altars, Vestments, which are no Types of Christ already come.

2. This Consecration was made by *Moses* the *Temporal Magistrate*, (not by *Aaron* the *High-Priest*) without any other Ceremony than meer anointing the *Tabernacle* and its Vessels and Implements with Oil; therefore this was no Warrant for *Bishop's* consecrating Churches, Church-Yards, Chappels, Altars, Vestments, with other Ceremonies, without any anointing them with Oil.

3. This Consecration was only *Temporary, Jewish, Ceremonial*, abolished by Christ's death, *Col. 2. 14, &c.*

4. King *Solomon* did not Consecrate the *Temple*, nor the Vessels and Court thereof with Oil, as *Moses* did the *Tabernacle*, but after he had brought the *Ark, Tabernacle*, and all the holy Vessels into it, with Praises, Thanksgiving and Instruments of Musick, and after the Cloud and Glory of the Lord had filled the House, he made an Heavenly Prayer only in the midst of the Court, not in the Temple, before all the Congregation of *Israel*.

1. That the most Holy Place was so stiled, tho never Consecrated: so *Jerusalem* is very frequently called the Holy City, *Mat. 4. 5. and 27. 53.*
though

though never Consecrated, and God told *Moses*, the place whereon thou standest is holy Ground, Exod. 3. 5. though never Consecrated by a Bishop.

2. Our own Homilies inform us, That the Church is counted and called Holy, not of it self, (nor yet for its Consecration by a Bishop) but because God's People resorting thither, are Holy, and exercise themselves in Holy and Heavenly things.

3. The Hearing and Preaching of God's Word, Prayer and receiving the Sacraments therein, are sufficient of themselves to sanctifie, and make it Holy, without any other Consecration.

4. Sanctification in it's own nature, is nothing else but a sequestering of any thing from a common or ordinary use, to a Religious and Sacred Purpose, and this may be done without a Bishop's *Exorcism* or Conjunction.

For his throwing up of Dust, two Witnesses expressly depose it, which must over-balance his bare Negation, and there is so little difference between Dust and Ashes, as they are usually coupled together as *synonymous* in Scripture and Authors. That he took his Form from Bishop *Andrews*, is only averred by himself, not proved by any Witness; but that it agrees with that in the *Pontifical*, which we found in his Study even *in terminis*, is most clear, and therefore we cannot but presume he derived it from thence: However if Bishop *Andrews* imitated the *Pontifical*, and he Bishop *Andrews*, the charge is much alike.

Sir Miles Hobart, and William Stroud Esq; their Case.

ON the 23^d of *January* the Attorney General exhibited two several Informations, the one against *William Stroud*, Esq; the other against *Sir Miles Hobart*, Knight. The Charge against both of them therein, was for several Escapes out of the Prison of the *Gatehouse*: they both pleaded not guilty. And their Cases appeared to be as followeth. The said *William Stroud*, and *Sir Miles Hobart*, were by the King's Command committed to Prison, for Misdemeanours alleged against them, in their carriage in the House of Commons at the last Parliament. Afterward in *Trinity Term Anno 6. Caroli*, both of them being by Order of this Court, and by Warrant from the Attorney General to be removed unto the *Gatehouse*; the *Warden* of the *Marshalsey* (where they were before imprisoned) sent the said *Stroud* to the Keeper of the *Gatehouse*, who received him into his House lately built, and adjoining to the Prison of the *Gatehouse*, but being no part thereof. After which receipt, the same night, he licensed the said *Stroud* to go with his Keeper unto his Chamber in *Grays Inn*, and there to reside. *Sir Miles Hobart* was also by the said *Warden* of the *Marshalseys* delivered to the Keeper of the *Gatehouse*, but being sick, and abiding at his Chamber in *Fleetstreet*, he could not be removed to the Prison of the *Gatehouse*, but there continued with his Keeper also. Afterwards the Sickness increasing in *London*, they (with the License of the Keeper of the *Gatehouse*, as it was proved) retired with their Under-keepers to their several Houses in the Country for the space of six weeks, until *Michaelmas Term* then next following, when by direction of the said Keeper they returned to his House; But in all that space it could not be proved, that they were in any part of the old Prison of the *Gatehouse*, but in the new Building thereto

Sir Miles Hobart, and William Stroud their Case about an Escape.

An. 1630.



thereto adjoining, unless when they once withdrew themselves to a Close-stool, which was placed near to the Parlor, and was part of the Old Prison of the *Gatehouse*. This Evidence was given to both the Juries, and both them returned their Verdicts severally, *That they were not Guilty*, according to the Information exhibited against them. And in this Case it was debated at the Bar and Bench, Whether by this receipt and continuance in the New House only, it may be said, That they ever had bin imprisoned? And the Judges held, *That their voluntary retirement to the Close-stool, made them to be Prisoners*. They resolved also, That in this and all other Cases, although a Prisoner departs from Prison with his Keepers Licence, yet it is an Offence as well punishable in the Prisoner as in the Keeper. And *Calthrop* made this difference between Breach of Prison and Escape; the first is *against the Goaler's will*; the other is *with his consent, but in both the Prisoner is punishable*; whereunto the whole Court agreed. It was also resolved, That the Prison of the *King's Bench* is not any Local Prison, confined only to one Place; and that every Place where any Person is restrained of his Liberty is a Prison. As if one take Sanctuary and depart thence, he shall be said to break Prison.

Ireland Defective Titles.

The 14th day of *March*, his Majesty issued out a Proclamation, declaring his Royal Grace to confirm to his Subjects of the Realm of *Ireland* their Defective Titles, and to establish their Estates and Possessions by his Commission under the Great Seal of *England*, as the strongest motive to quiet them, to make them subject to the Laws, to conform themselves to Industry, and to make them opulent. See this at large in the *Appendix*.

An Account of the Bills of Mortality for 3 great Plagues.

The total of all the Burials for this Year 1630 in *London*, and the Liberties, of all Diseases 10554, whereof of the Plague 1317.

There died in the first Year of King *Charles* the First, Anno 1625, in *London* and the Liberties, of all Diseases 54082, whereof of the Plague 35428.

And in the Year 1665, there died 79000 Persons, whereof of the Plague 65890.

The Ld. Keeper's care to answer Petitioners.

It was the usual custom of *Thomas Lord Coventry*, Lord Keeper of the Great Seal of *England*, diligently to observe the fitting Days of the Privy-Council; and his course was ever in the first place to hear all Petitions read; and when there had bin any Hearing upon them, or Answers given to them without Hearing, he commanded the Clerk of the Council, to inquire if there were any more Petitions; and if none, then he used to rise and leave the Council sitting, and not to stay the Debate of Matters of State, or Foreign Affairs; and were the Petitioner never so mean, his Petition was certainly read, if the Lord Keeper was there.

A complaint by the Fishermen of *Barkham*.

An Example of which you have in the Fishermen of *Barkham* in *Essex*, who made their complaint against Captain *John Smith*, Captain of the *South Blockhouse*; and Captain *John Duffield* Captain of the Ship called the *Seven Stars*, riding at *Medway*, for divers wrongs and extortions of Fees, in taking Mony of the Petitioners, under pretence of requiring their Bond, and the like: Whereupon it was this day Ordered, That the said Fishermen should hereafter bring Certifi-

cates

cates and Bonds ready made, unto Sir *Thomas Fanshawe* Knight, dwelling in *Essex*, and before him shall Sign, Seal, and deliver the same to his Majesties use, and leaving the said Bond with the foresaid Captain, were to proceed in their Vocation of *Fishing*, without any other Bond to be required of them after, or any trouble or molestation touching the same, notwithstanding any restraint; when by the said Restraint it is permitted to them to proceed in their Fishing, giving Bond not to pass beyond Seas.

6 *Caroli.*

Titles of PROCLAMATIONS, &c.

Pro Anno 1630.

A Proclamation for the better ordering of those who repair to the Court, for the Cure of the Disease, called the *Kings-Evil*.

Whitehall,
April 6.

A Proclamation for the preventing of the Exportation of Woolls, Wooll-fells, Yarn, Fullers-Earth, and Wood-Ashes, and of Hides both Tan'd and Raw, out of this Kingdom.

Whitehall,
April 17.

A Proclamation for quickning the Laws made for the Relief of the Poor, and the suppressing, punishing, and setting of the sturdy Rogues and Vagabonds.

Whitehall,
April 23.

A Proclamation for the restraining of the Importation of Iron-Wier into this Kingdom, and for the support of that Manufacture.

Whitehall,
May 7.

A Proclamation declaring his Majesties Royal Grace and Pleasure, to confirm to his Subjects their Defective Titles, Estates, and Possessions (as well by colour of former Grants, as without any Grant from the Crown) by his Commission lately renewed and granted to that purpose.

Whitehall,
May 27.

A Proclamation for the better discovery and prevention of Burglaries, Robberies, and other Frauds and Abuses; and for the suppressing of all secret and unlawful practices of Retailing Brokers, and others which may occasion the same.

Whitehall,
June 5.

A Proclamation prohibiting the Exportation of Corn and Grain.

Whitehall,
June 13.

A Proclamation for the suppressing of Felons and Out-laws, their Aiders and Abettors, by bringing them to be answerable to the several Laws of the several Realms of *England* and *Scotland*.

St. James's
June 30.

A Proclamation for the ease of the Subjects in making their Compositions for not receiving the Order of Knighthood according to the Law.

St. James's
July 6.

A Proclamation concerning New Buildings in and about the City of *London*; and against the dividing of Houses into several Dwellings, and receiving and harbouring of Inmates.

Non such,
July 16.

An. 1630.

Non such,
Aug. 1.Farnham,
Aug. 9.Canterbury,
Aug. 19.Wantage,
Septemb. 9.Theobalds,
Septemb. 17.Hampton-
Court, Sept. 28Whitehall,
Novemb. 11.Whitehall,
Novemb. 24.Westminster,
Decemb. 5.Whitehall,
Jan. 6.Whitehall,
March 14.

A Proclamation prohibiting the keeping of *Bartholomew-Fair*, and *Sturbridge-Fair*, and our *Lady-Fair* in *Southwark*.

A Proclamation against the false dying of Silk.

A Licence for a Collection throughout *England* and *Wales*, towards the Maintenance of the Exiled Ministers of the *Palatinate*.

A Proclamation for adjourning the Term.

A further Proclamation for the suppressing and punishing of Rogues and Vagabonds, and relief of the Poor, according to the Law.

A Proclamation for preventing the Dearth of Corn and Victual.

A Huy and Cry against Dr. *Leighton*.

A Proclamation forbidding the disorderly Trading with the *Salvages* in *New-England* in *America*; especially the furnishing the Natives in those and other parts of *America*, by the English, with Weapons, and Habiliments of War.

A Proclamation for Peace with *Spain*.

A Proclamation concerning Tobacco.

A Proclamation declaring his Majesties Royal Grace, to confirm to his Subjects of the Realm of *Ireland*, their Defective Titles, and to establish their Estates and Possessions by his Commission under his Great Seal of *England*.

Historical

Historical Collections

For the Year 1631.



Whereas his Majesty hath bin graciously pleased to give permission to Our very good Lord, the Lord Marques of Hamilton, for the levying and transporting of six thousand English Voluntiers to be employed in the Service of the King of Sweden. And whereas Captain Coningsby of the Regiment of Sir James Hamilton, hath desired a Commission for the raising of the Company to go under his Command, consisting of 150, within the Counties of Hereford, Kent and Middlesex; These are therefore, according to his Majesties express pleasure on that behalf, to signify as well to your Lordships his Majesties Lieutenants of the said Counties, and to your Deputy Lieutenants; as well also to all Mayors, Sheriffs, Justices of the Peace, and to all other his Majesties head Officers and loving Subjects, to whom it shall appertain, That we do hereby grant License unto the said Captain Coningsby, to take up and entertain, by beating of Drum or otherwise, the said number of 150 Voluntiers within the Counties and Places aforesaid, praying and requiring your Lordships, &c. to afford the said Captain and his Officers your best assistance and furtherance on that behalf, as also in the orderly conduct of them, without Dammage, Charge, or Offence to the Country, from Place to Place within your severall Jurisdictions, unto the Place or Port of their embarking.

A Commission granted to the Marques of Hamilton's Officers to raise their Men.

The like Commissions were granted to the rest of the chief Commanders and Officers.

At this time the King granted more Commissions for raising 6000 Men for the Service of the King of Sweden; a List of which Officers, and the Counties wherein they were to raise the Men, followeth.

An. 1631.

The names of the chief Officers and Captains of three Regiments hereafter named, with the several Counties wherein each Company was to be levied.

Sir Jacob Ashley Colonel.

Captains Names.

Counties.

Captain Ballard, the Colonel's Company, to raise his Men in the Counties of

Lincoln,
Nottingham,
Surrey.

Lieutenant Colonel Talbot, to raise his Men in the Counties of

Essex,
Suffex,
Oxon,
Stafford,
Salop.

Serjeant Major John Chamberlain, to raise his Men in the Counties of

Bristol,
Somerset,
Wilts,
Hertford,
Bedford,
Southampton.

Captain Earnly, to raise his Men in the Counties of

Wilts,
Somerset,
Northampton.

Capt. David, to raise his Men in the Counties of

Carmarthen,
Cardigan,
Pembroke,
Salop,
Warwick,
Stafford.

Capt. Ashly, to raise his Men in the Counties of

Norfolk,
Suffolk,
Cambridge,
Oxon,
Berks.

Capt. Wroughton, to raise his Men in the Counties of

Gloucester,
Wilts,
Oxon,
Stafford.

Capt. Goodrick, to raise his Men in the Counties of

Northampton,
Huntingdon,
Cambridge.

Capt.

Captains Names.

Counties.

7 Caroli.

Capt. Howel,
To raise his Men in the
Counties of

Glamorgan,
Monmouth,
Kent,
Stafford.

Capt. Crofts,
To raise his Men in the
Counties of

Suffolk,
Essex,
Bedford,
Somerset,
Gloucester.

There was added to every of the Warrants of Sir Jacob Ashley's Regiment, the County of *Middlesex*, the Cities of *London* and *Westminster*.

Sir James Hamilton Colonel.

Captain Coningsby,
the Colonel's Com-
pany, To raise his Men
in the Counties of

Hertford,
Kent,
Middlesex.

Lieutenant Colonel
Sir William * Balan-
tine, To raise his Men
in the Counties of

Brecknock,
Cardigan,
Radnor,
Pembrook.

* If not Va-
lentine.

Serjeant Major Arthur
Brett, To raise his Men
in the Counties of

Sussex,
Essex,
Middlesex,
Dorset,
Somerset,
Norfolk,
Kent.

Capt. Arthur Long,
To raise his Men in
the Counties of

Middlesex,
Surrey.

Capt. Pawlet,
To raise his Men in
the Counties of

Southampton,
Wilts,
Somerset,
Dorset.

Capt. Hamond,
To raise his Men in
the Counties of

Surrey,
Berks,
Kent,
Norfolk,
Oxford.

Capt.]

An. 1631.

Captains Names.

Counties.

Capt. Cary,
To raise his Men in
the Counties of

Southampton,
Hereford,
Gloucester.

Capt. Breton,
To raise his Men in
the Counties of

Southampton,
Dorset,
Sussex.

Capt. John Bell,
To raise his Men in
the Counties of

Hertford,
Northampton,
Warwick,
Oxford,
Middlesex.

Capt. Vavasor,
To raise his Men in
the Counties of

Warwick,
Stafford,
Salop,
Chester.

Capt. Terwitt,
To raise his Men in
the Counties of

Lincoln,
Hertford,
Gloucester,
Middlesex.

Capt. Fieldings,
To raise his Men in
the Counties of

Warwick,
Northampton,
Worcester,
Kent.

The like Warrant for Capt. William Sterne, to raise his Company of 150, within the Counties of Cambridge, Huntingdon, Essex, Suffolk.

Sir James Ramsfey Colonel.

Captain Bruce, the
Colonel's Company,
To raise his Men
in the Counties of

Middlesex,
Essex,
Kent,
Hertford.

Lieutenant Colonel
Goring, To raise his
Men in the Counties
of

Sussex,
Southampton,
Kent,
Leicester.

Serjeant Major Fowler,
To raise his Men
in the Counties of

Worcester,
Salop,
Wilts,
Berks,
Middlesex.

Capt.

Captains Names.

Counties.

7 Caroli.

Capt. Roger Powel,
To raise his Men in
the Counties of

Gloucester,
Hereford,
Monmouth,
Brecknock,
Glamorgan,
Carmarthen,
Radnor,
Montgomery,
Salop.

Capt. Talbot,
To raise his Men in
the Counties of

Salop,
Stafford,
Worcester,
Gloucester,
Wilts,
Oxford,
Berks.

Capt. John Powel,
To raise his Men in
the Counties of

Gloucester,
Hereford,
Monmouth,
Brecknock,
Glamorgan,
Carmarthen,
Radnor,
Montgomery,
Berks.

Capt. Geo. Clifford,
To raise his Men in
the Counties of

York,
Nottingham,
Lincoln,
Westmorland,
Cumberland,
Carlisle.

Capt. Douglass,
To raise his Men in
the Counties of

Surrey,
Middlesex,
Gloucester.

Henry

An. 1631.

Mr. Bellasis
summoned to
attend the
Council,

For seeming to
affront the L.
President of
the North.

His Answer.

His Commit-
ment.His Submissi-
on and Re-
leafment.

April 10. 1631.
A Commission
for Repairing
of St. Paul's.

Henry Bellasis, Son and Heir of the Lord *Faulconberg*, was on the 6th of *April* called before the Council Board, to answer his contemptive carriage towards the Lord *Wentworth*, Lord *President of the North*, and one of his Majesties Honourable Privy Council. The Charge given against him was, 'That he had come into the Room wherein the said Lord President was at a solemn meeting, without shewing any particular reverence to the said Lord President, as in civility and duty he ought to have done. And that afterwards his Lordship going out of the said Room with his Hat off, the King's Mace-Bearer before him, and all the rest of the company uncovered, he the said Mr. *Bellasis* stood with his Hat on his Head, looking full upon his Lordship without stirring his said Hat, or using any other Reverence or Civility to the said Lord President.

'To which the said Mr. *Bellasis* made answer by a solemn and deep Protestation, That he came into the Room as he shall do into all other places, fully purposed and ready to perform that Respect and Reverence to the Lord Viscount *Wentworth*, which he acknowledged to be due to the place he holds under his Majesty; And the reason why he did not put off his Hat to his Lordship going out of the Room was, that his Face being turned about the other way, talking with *Ferdinando* Lord *Fairfax*, his Lordship was past before he was aware thereof; that otherwise he would have put off his Hat, and given that Reverence to his Lordship: Protesting again deeply, that he came with no intent into the Room to offer any neglect or disregard to the said Lord President. Whereupon he was commanded to withdraw, and being commanded to kneel, did but seemingly do it. Yet by reason Mr. *Bellasis* was a young Gentleman, and that he would hereafter behave himself with more Civility and Humility towards his Majesty's President, therefore did only order that the said Mr. *Bellasis*, as he hath now made this Profession before their Lordships, so should he also under-write the same with his own Hand, together with an Acknowledgement, that he is sorry he gave such occasion of Offence and Scandal to the said Lord *Wentworth*, which was accordingly drawn up and tendered to him: but Mr. *Bellasis* refusing to submit to it and obey, was by their Lordships committed to the *Gatehouse*.

Mr. *Bellasis* after a month's Imprisonment, was by the Lords of the Council called in again the 6th of *May*, and seemed willing to subscribe the Acknowledgment: 'But said he hoped the Submission was understood to have relation to the Place, and not to the Person of the Lord President; and being thereupon commanded to withdraw, his Friends presently prevailing with him to submit, which being signified to their Lordships, he was called in again, and submitted to obey their Commands, and was thereupon set at Liberty.

The Devotion of those times undertook a vast and expensive Work, the repairing of the Cathedral Church of St. *Paul's* in *London*. To which end a Commission under the Great Seal was awarded to the Arch-Bishops of *Canterbury* and *York*, the Bishops of *London* and *Winchester*, to all the Lords of the Council, and all the prime Ministers of State, to the Lords *Chief-Justices* of the Courts at *Westminster*, and to the Lord Mayor, divers Aldermen, and the Chamberlain of the City of *London*, and to the Dean, and Residentiaries of that Cathedral.

His

His Majesty therein Declaring; that he had taken into his serious and Princely Consideration the great decays of that Building, the same being the goodliest Monument, and most eminent Church in all his Dominions, and a principal Ornament of the Royal City; that in respect of his Zeal to God's Glory, and for the Honour of his Government, he had an earnest desire and purpose to provide for the Repairing and Upholding of that Magnificent Structure, and restoring the same to its antient Beauty and Glory, according to the pious intention of his Royal Father, who granted a Commission to begin and set forward that great and honorable Work. And duly weighing, that as this chargeable Fabrick in the first founding thereof, could not but require many Years of time, and large supplies of publick Charity; So the substantial Repairing and Adorning thereof is not to be effected out of any Rents, or Revenues heretofore pretended to have been given to that use, but will require a stock of Money and Materials to begin the Work, and a constant yearly supply to bring it to an end. Wherefore it was his Majesty's will and pleasure, that all Monies to be raised or recovered for this Work, should be paid into the Chamber of *London*, as the fittest and safest *Chest* whereinto the same can be put, and the Materials which already are or shall be brought in, shall be laid in *Store-yards*, Houses, and Places, by Officers appointed for that purpose. And the Bishop of *London* was authorised to keep a *Register*, wherein to take the several Subscriptions of the *Nobility, Bishops, Judges, Serjeants* and *Counsellors at Law*, Officers and others of Quality and Ability who shall willingly contribute. The *Judges* of the Prerogative Courts of both Provinces, and the *Vicars General*, and the Officials of the several Bishopricks of the *Kingdom*, were commanded to take special care, that out of such Monies as shall fall into their power upon the Deceases of Persons intestate, to be distributed for pious uses, some convenient proportion thereof be assigned to the supply of this Charge. And the *Letters Patents*, for the general Contribution of all Subjects in the *Kingdom*, were to be drawn in a more special manner, according to the extraordinary nature of this Case. Also the Commissioners had Authority for taking of an exact Survey of the particular decays of the Church, and calculating the Charge thereof, for the discovering of all such Legacies, Gifts and Sums of Money as were given, or intended, for the Maintaining, Repairing, and Adorning thereof; and for Advising and Agreeing upon the Forms of *Letters Patents* for Publick Collections throughout *England and Wales*; and for the orderly bringing in all such Moneys as should be Collected, Raised, or Recovered for this Public Use, and of all Materials thereunto belonging, and for the well-disposing thereof; and for making of meet Orders and Constitutions for the Preservation of that *Cathedral*, and suppressing and preventing all present and future Annoiances, Purprestures and Encroachments, which tend to the Damage or Disgrace thereof. And that the Proceedings herein may be firm and inviolable, and remain in perpetual memory, this Injunction was added, *That a Certificate thereof be made into the Court of Chancery, there to remain on Record.*

7 *Caroli.*

A Register appointed for the Subscription of Benefactors.

According to the directions in this Commission, *Briefs* for Contributions were issued forth under the *Great Seal*, in different manners, according

Briefs for Contribution issued forth for that effect.

An. 1631.

Some Persons
remiss in exe-
cuting them.

according to the different condition of the places unto which they were directed. Resolutions were taken by the Lords Committees, that
 ' once a Year a Certificate be made of the Money given, and of the
 ' Donors names; and that the Work should not begin till there were
 ' 10000 *l.* in Bank; and when the Scaffolds were up, and the Work
 ' begun; that two or three Chests should be set in the Church, in
 ' convenient places, for receiving the Benevolences of well-disposed
 ' Persons.

And where-ever there was found slackness in raising or collecting of Monies in this behalf; Persons of Wealth or Authority in their Country, were to be quickened by *Letters Monitory* sent from the Council Table. Sir *Francis Knowls* and Sir *Thomas Vachel*, Justices of the Peace in *Berks*, received such Letters, wherein they were checked for delaying to publish his Majesties Commission, and forbearing to express their own Liberalities, and their good inclinations to so pious a Work, which might be a means to invite others by their good example; and were enjoined, for the redeeming of opportunities already let slip, to redouble their diligence, and to put the Commission in execution by the best ways and means they could; and to return an exact Accompt of the Monies given by themselves and others; that the King being therewith acquainted, may distinguish between such as are forward and well-affected, and such as are slack and remiss in doing God and him Service.

Resolutions taken by the Lords Committees for the Business of the Cathedral Church of St. Paul.

1. That once a Year Certificates be made of the Monies given, and the Donors Names.
2. That a Clerk of the Work be chosen, and a Pay-master, and a Purveyor.
3. The Work not to begin till there be Ten thousand pounds in Bank. That when the Scaffolds are up, and the Work begun, two or three Chests be set within the Church, in such places as shall be thought fit, for receiving the Benevolences of well-disposed Persons to the said Work.

Moreover, The Privy-Council being informed by fundry Hands, of a long Abuse in that Church, which might give an Impediment to Mens Liberal Offerings, thought fit to make this Order on the 18th of *January*.

Abuses to be
reformed in S.
Paul's Church.

THE Council Board by special Direction and Commission from his Majesty, taking into consideration the ways and means for the Reparation of the Cathedral Church of *St. Paul's*, were informed at fundry hands, of a long continued abuse of the place, which might give a great impediment to Mens liberal Offerings to so pious a Work, if care were not taken, as well for the Religious and decent use of the inside, as repairing of the outside. The offence that is taken as well by Forreigners, as those of our own Nation, is, that in time of Divine Service, while the upper part of the Church is used for Praying and Preaching, the nether part of the Church is used as an Exchange for Men to meet in, to walk, talk and discourse of all things; and the Church

Church it self, though by situation it stands convenient for Passage to and from all parts of the City; yet by that liberty is so far profaned, as it is used like a Street for carriage through of all Burthens, Provisions and Necessaries Men have to use, or pass from place to place; whereat good Men are much scandalized. Their Lordships finding this to be so unfit (the Dedication of that place considered) besides the coldness it may make in Men, otherwise well affected to this Work, if the better part be not cared for, as well as the material Work provided for, have thought fit to declare themselves thus far, to the *Dean and Chapter* of that Church, that they thereupon may seriously enter into Consideration how this Abuse may be reformed, and propound to the Board a fit Expedient. Their Lordships for their parts offer this unto the said *Dean and Chapter*; That in time of Divine Service, Prayers, or Preaching none should be suffered to be walking or talking in the Church, or nether *Iles* thereof; And at no time to have any part of the said Church used as a throughfare, or passage for Burthens, Provisions, or other common necessities to be carried through the Church, but for all those things to take the common way of the Streets. What more or other things the *Dean and Chapter* shall find fit to add, they are prayed and required to represent unto the *Board* with all conveniency, that such course may be therein taken as shall be fit, and this pious and worthy Work encouraged by all the means that may be.

7 Caroli

This Order was confirmed by his Majesty, and published in print, as followeth.

Pursuant to the reformation of Disorders in Cathedral Churches, particularly that of *S. Paul* in *London* lately begun, his Majesty gave forth special Commands and Orders in the terms following.

I.

That no Man of what quality soever shall presume to walk in the *Iles* of the Quire, or in the Body or *Iles* of the Church, during the time of Divine Service, or the Celebration of the Blessed Sacrament, or Sermons, or any part of them, neither do any thing that may disturb the Service of the Church, or diminish the Honour due to so holy a place.

Jun. 25. 1631.
Orders against
walking in St.
Paul's.

II.

That no Man presume to profane the Church by the carriage of Burthens or Baskets, or any Portage whatsoever.

III.

That all Parents and Masters of Families do strictly forbid their Children and Servants to play at any time in the Church, or any way misdemean themselves in that place, in time of Divine Service, or otherwise: And if any Children or Servants shall be found so doing, besides the punishment of the Delinquents, their Parents and Masters shall be subject to such Censures and Punishments, as is thought fit to be inflicted.

These Orders by command of his Majesty are now published, to the intent that no Man may hereafter pretend Ignorance for his excuse in any of them.

At this time certain Houses and Shops adjoining to *St. Paul's* were thought fit to be demolished, for the more commodious Repairing, and better Ornament of that Cathedral; Whereupon choice was made

Houses about
St. Paul's to
be demoilshed.

An. 1631.

of a certain number of the Commissioners to treat and compound with all persons interested in such Buildings, having a more especial regard to Widows, Orphans, and the poorer sort. And it was ordered, That if the Owners conformed themselves, by demolishing their Houses, by a limited time, they should receive such satisfaction, according to their several Interests, as their Lordships should think reasonable; Otherwise, the Sheriff of *London* was requir'd to see the same performed; it being not thought fit, that the Obstinacy of those Persons should hinder so considerable a Work. Hereupon Compositions were made with the Owners, for certain summs of Mony, to be paid out of the Monies design'd toward the repairing this *Cathedral*, together with the Materials of the demolished Houses. And the Bishop of *London*, the *Dean* and *Chapter* of *St. Paul's*, and the Warden of the Petty-Canons were appointed to accept the Surrender of the Leases so compounded for, and to deliver them to the Clerk of the Privy-Council, to be put into the *Council-Chest*, there to remain in safe keeping.

And because the Surveiors brought in, That the greatest part of the Houses in the Parishes of *St. Faith's* and *St. Gregories*, are within the Wall of *St. Paul's* Church-yard, and consequently built, as was alledged, to the Nuisance and Detriment of the Church, and might in reason and justice be ordered to be pull'd down, as well as the other Houses that abutted upon the Church Wall; Their Lordships ordered that the Sub-Committees should call before them such Owners and Inhabitants as have their Houses within those Parishes, and deal with them effectually for some Annual Contribution, or sum of Money, whereby Houses and Rents might be settled to the use of the *Parson* of *St. Gregories*, and of the *Almoner* and *Choristers*, to make some recompence for the Loss which would fall upon them by the taking down of their dwelling Houses, and some other Tenements belonging to their Maintenance.

And whereas the *Dean*, and the *Petty-Canons* of *S. Paul's* have a Quarter built on the North-side of the Church, in manner of a College, for their Habitation; which if wholly employ'd to the use of the Church, was conceiv'd convenient enough, both for them and the *Parson* of *St. Gregories*, and the *Master* and *Choristers*: Their Lordships ordered, that the Sub-Committees should send for the *Dean* and *Petty-Canons*, and upon their Examination and View of the Place, discover and certifie the *Board* what Tenants do inhabit, and what Inmates are lodged there.

The Parishioners of *St. Gregorie's* having begun to make a Vault for the Burial of the Dead, from the South-side of *St. Paul's* towards the Street, near the *Lollard's Tower*, fifty foot in length, and fourteen in breadth, it being found that in digging they bared three settings off from the South-side of the Cathedral; and upon the East, and South-side of the *Lollards-Tower*, five foot deep, from the first setting off above ground; the Lords of the Council ordered, lest the Foundation of this great Building should be under-wrought, that the Vault should be shortned, so as neither the Grises be bared, nor the Walls of the Church, or Tower touched; and that a separation-Wall be made, and the place within be thorowly fill'd up with Earth.

Afterwards the Wall of *St. Gregorie's* Church was ordered by the Lords of the Privy-Council to be pull'd down, as an impediment to

the

Concerning
St. Gregorie's
Church by
St. Paul's.

the Work, and unseemly to the View of the Cathedral; and the rather, because it was within another Church-yard already consecrated for Burial.

At last St. Gregory's Church it self, being found a great Impediment to the Work in hand, several strict Orders were made to the Parishioners to take it down, and remove it to some other place. The Parishioners alledging inability to undergo the Charge, petition'd the Lords of the Council, that they might be freed from that Injunction; but their Lordships finding no cause to vary, did ratify the former Orders. And as touching the difficulty of finding out and procuring a fit place for the erecting of a New Church within that Parish; and the pretended disability to undergo the Charge of Building it, they leave it to the Parishioners Election, Whether they will build the same, or be assign'd to any one or more Parishes, in such manner as the Lord Bishop of London shall think fit and direct, and so remain till a New Church be erected.

After this they of St. Gregory's, being in number above 3000 Souls, were assign'd to the West end of Christ-Church; but those of Christ-Church refusing to admit them without Composition, or hard Conditions, it was ordered by the Privy-Council, that they should freely assemble there without any farther burthen.

UPON the 25th of April began the Arraignment and Condemnation of Mervin Lord Audley, Earl of Castle-Haven in Ireland; who being accused of several Crimes and Enormities, now brought to light, the King thought it meet that he should have a publick and fair Trial. And in order thereunto, the Lord Keeper wrote to some of the Judges to hasten to Town, after their Circuits were over, to be present at his Trial, which was to be in Westminster-Hall before the beginning of Easter Term, to be assisting to the Lord High Steward.

The Trial of
Mervin Lord
Audley.

The Judges that were required to be present were these.

Sir Nicholas Hyde, Lord Chief Justice of the King's Bench.

Sir Thomas Richardson, Ld. Chief Justice of the Common Pleas.

Sir Humphry Davenport, Lord Chief Baron of the Exchequer.

Baron Denham.

Judge Jones.

Judge Hutton.

Judge Whitlock.

Judge Cook.

In this Case there were three Indictments found at Salisbury, the Wednesday preceding Easter, before the Lord Chief Justice Hyde, the Lord Chief Justice Richardson, and Baron Denham, Justices of Assize for that Circuit, and special Commissioners in this Case. The one Indictment was for a Rape upon his own Wife, for holding her by force, whilst one of his Minions, forcibly and against her Will, had Carnal knowledge of her; so that he was Indicted as *præfens, auxilians, confortans*, and therefore a Principal. The other two Indictments were for Buggery with a Man.

On Friday morning before the Trial, the Judges being sent for,
all

An. 1631.

Judges met at
Serjeants-Inn
about the Earl
of Castle-
Haven.

* Said to be
Judge Whitlock.
Questions
propounded to
the Judges, and
answered.

all but *Denham* (being met at *Serjeants-Inn Hall* in *Fleetstreet*) these Questions were proposed unto them by Sir *Robert Heath* the King's Attorney General; A memorial of which, a learned * Judge, one of the eight before mentioned, set down in writing to the effect following.

1. *Whether a Peer of the Realm may waive his Trial by Peers, and plead he will be tried by God and the Country?*

Answer. He may not. For his Trial by Peers is no Privilege, but the Law, declared by *Magna Charta*; and if he will not plead to Trial by his Peers, it is a standing Mute.

2. *Whether a Peer may challenge his Peers, as in the case of common Jurors?*

Answer. He may not, (which I think is so, said that Judge) because they go not on their Oath, but on their Honour, and a Challenge is tried whether he stand indifferent as unsworn.

3. *Whether a Peer may have Counsel any more than a common Person?*

Answer. If Matter of Law appear, he may, not for Matter of Fact. Certain Examinations being taken by the Lords without Oath; It was resolved,

These could not be used until they were repeated upon Oath, unless of the Party to be tried, which may be read without an Oath.

4. *Whether the Wife in this Case may be a Witness against her Husband for the Rape?*

Answer. She may, for she is the Party wrong'd; otherwise she may be abused. In like manner a Villain may be a Witness against his Lord in such Cases.

5. *Whether the Witnesses are to be produced viva voce, if the Lord Steward require it, or the Prisoner?*

Answer. If he stand Mute in the Case of Rape or Buggery, he may have his Clergy in either.

6. *Then if he may not be put to Trial on the other Indictment, may not he be for a latter Buggery, and be denied his Clergy?*

Answer. On that he may, by 18 Eliz. 1.

7. *Whether in case one standeth Mute, Evidence may be opened by command of the Court concerning the Fact, though the Delinquent be to be pressed to death for his contempt?* But it is a matter in the discretion of the Court.

8. *Whether in Cases where Clergy is allowable, the party may pray it before he answer, and deny to answer, otherwise?* for this is a Confession.

9. *Whether in Rape there must be Penetratio?*

The Answer was in the Affirmative.

10. *He having made suit to be bailed, whether it might be granted?*

Answer. Let the King, as King, advise of it. The Judges certified the Lord Keeper that he could not in justice require it; yet he might be bailed *ex gratia*, which was not fit in this odious Case.

At a second Assembly of the said Judges in *Serjeants-Inn*, other things were considered of as to this Matter.

A difference was made between a *Buggerie* and a *Rape*, in point of having Clergy, if he stood Mute: for it was argued he might have hi

his Clergy if he stood Mute in *Rape*, but not in *Buggery*, because by the Stat. 25 Hen. 8. *Buggerie* is made *Felony*, which by the Common Law is not. And in the very creation of the Offence, Clergy is taken away; whereas Clergy did lie for a *Rape*, until it was taken away by a Statute.

It was concluded that the Lords might Eat and Drink before they were agreed, but they could not separate nor adjourn the giving up of their Verdict. This appeared out of the Report of the Lord *Dacres* of *Gregstock's* Case, who was tried for Treason, and acquitted by his Peers, 26 H. 8.

It was agreed by the Justices in that Case of the Lord *Dacres*, that a Verdict cannot be given by a lesser number of the Lords than twelve; and if twelve be for the King, and thirteen for the Prisoner, the Prisoner shall be acquitted.

In an Appeal, if the Defendent be Mute, he shall be hanged, and it is an Attainder, it being not within the Statute of *Westminster*, Cap. 12. *De paine fort & dure*. No more is Treason. vide *Stamf.*

It was agreed also, That a Lord of the Parliament is within the Statute of *Westminst.* 1. in case of *Felony*, and shall be pressed to death.

It was agreed, If the Lord *Audley* should have his Clergy upon his being Mute, yet he might be tried upon the other Indictments of *Rape* and *Buggerie*, and should not have his Clergy, by the Statute 18 Eliz. because the admitting him to his Clergy, would be a *Supersedeas* to all Indictments of Offences within Clergy, not of those without by that Statute. For by the Common Law, he that is admitted to his Clergy, is discharged from answering any other Offence; for by indictment of that Law, he is taken from the Power of the Secular Judge, and put into the hands of the Ordinary, whose Prisoner he is all his Life after.

It was resolved from the Lord *Dacre's* Case, That the Lord *Steward*, after Verdict given, might take time to advise upon it for any point in Law; and that his Office did continue unto him until his Judgment and Resolution, and it was but a Commission *hac vice* notwithstanding.

The Names of the Peers at the Trial of the Lord Audley.

- | | |
|---|--------------------------------|
| 1. Richard Lord Weston, Treasurer. | 12. Robert Earl of Warwick. |
| 2. Henry Earl Manchester, Privy Seal. | 13. James Earl of Carlisle. |
| 3. Thomas Earl of Arundel and Surrey, Marshal. | 14. Henry Earl of Holland. |
| 4. Philip Earl of Pembroke and Montgomery, Chamberlain to the King. | 15. Thomas Earl of Berkshire. |
| 5. Henry Earl of Kent. | 16. Henry Earl of Danby. |
| 6. Edward Earl of Worcester. | 17. Edm. Vicount Wimbleton. |
| 7. Francis Earl of Bedford. | 18. Edward Vicount Conway. |
| 8. Robert Earl of Essex. | 19. Dudley Vicount Dorchester. |
| 9. Edward Earl of Dorset. | 20. Tho. Vicount Wentworth. |
| 10. William Earl of Salisbury. | 21. Henry Lord Clifford. |
| 11. Robert Earl of Leicester. | 22. Algernon Lord Piercy. |
| | 23. James Lord Strange. |
| | 24. Dudley Lord North. |
| | 25. William Lord Peter. |
| | 26. Edward Lord Howard. |
| | 27. George Lord Goring. |

The

7 Caroli.

An. 1631.

The manner of the Trial.

There was prepared in *Westminster-Hall* a long Gallery ascending with twelve steps, beginning directly over against the *Common-Pleas* Bar; extending in length to the top of the *King's-Bench* Stairs. At the higher end of the Gallery there was a long fair Table, with Benches on each side, for the Peers to sit on; and at the upper end thereof there was a Cloth of State for the Lord *High Steward*; also at the lower end another short Table for the Lords and Judges to sit at. And there was also a place provided for the King's Learned Counsel, and Officers of the Court; and below that, the Bar for the Prisoner: Scaffolds being also erected on each side of the *Hall* for People to stand and hear the Trial.

On the day appointed the Peers came into the *Hall*, and took their places according to their Degrees; The Judges likewise came, and took their places in order: After them the King's Learned Counsel, and the Officers of the Court.

Thomas Lord Coventry, Lord Keeper of the *Great Seal*; being by Commission under the said *Great Seal*, dated the 13th of *April* 1631, constituted Lord High Steward for the time being, about nine of the Clock in the morning entered into the *Hall* uncovered, with seven Serjeants at Arms carrying seven Maces before him, and attended upon by Sir *John Burroughs* King at Arms, and Mr. *James Maxwell* Usher of the Black Rod.

The Lord *Steward*, after he had saluted the Lords the Peers, who resaluted him, ascended the State; and being seated in the Chair, was presented with his Majesty's Commission by Sir *Robert Rich*, one of the Masters of the *Chancery*, which was openly read by Sir *Thomas Fanshaw* Clerk of the Crown. Then Mr. *Maxwel* kneeling down, presented his Lordship with a White Staff, or Rod, which he gave to one of the Serjeants at Arms, who held up the same by the Chair of State, on the right hand thereof.

Then the Lord *Steward* gave leave to all the Peers, and to all the Lords, and Judges, and Privy-Counsellors there present, to put on their Hats and be covered; and command was given, that none under those Degrees should be covered upon pain of Imprisonment.

Then the Peers were severally called by their Names, and each of them answered particularly.

The King's Counsel there present, were,

Sir *Robert Heath*, Attorney General.
 Sir *Richard Shelton*, Solicitor General.
 Sir *John Finch*, Queen's Attorney General.
 Sir *Thomas Crew*, the King's Serjeant at Law.

The Officers of the Court, were,

Sir *Thomas Fanshaw*, Clerk of the Crown.
 And Mr. *Keeling*, his Assistant.

Then

Then the Lord *Steward* commanded the Indictments to be certified and brought in; This being done, the Lieutenant of the *Tower* was called by a Serjeant at Arms, and commanded to bring forth the Prisoner; who accordingly being brought to the Bar, attended by divers of the Guard, he made obeysance to the Lord *Steward*, and the *Peers*, by whom he was resaluted. Then the Lord *High Steward* directed his Speech unto him, which was as followeth.

7 Caroli.

My Lord Audley,

THE King hath understood, both by Report, and the Verdict of divers Gentlemen of Quality in your own Country, That you stand impeached of fundry Crimes of a most high and hainous nature. And to try whether they be true or not, and that Justice may be done accordingly, His Majesty brings you this day to your Trial. Doing herein, as the Mighty King of Kings, in the 18th of *Genesis*, vers. 20, 21. who went down to see whether their Sins were so grievous as the cry of them; *Because the cry of Sodom and Gomorrah is great, and their sins grievous, I will go down, saith the Lord, and see whether they have done altogether according to the cry of it.* And the Kings on Earth can have no better Pattern to follow than the King of Heaven: And therefore our Sovereign Lord the King, God's Vicegerent here on Earth, hath commanded that you should be here tried this day; and to that end he hath caused these your Peers to be assembled: And the desire of his Majesty is, that your Trial should be as equal as Justice and Equity it self: And therefore these Noblemen, your Peers, whose hearts are as full of Integrity, Justice and Truth, as their Veins full of Noble Blood, are this day to try you; wherefore if you be innocent speak boldly and confidently, and fear not to justify your self: And be assured, that those that accuse you, if you be free your self, shall not escape free; But if you be guilty of these Crimes, I advise you to give honour to God and the King, and confess your Faults; for it is not vain Confidence, nor Subtilty, nor standing out in denial, that hides the Truth, and all shifts and subtilties against it are but *Concilia adversus Dominum*.

Therefore if Truth touch you at the Heart, and your Conscience, which is your Witness, and God's Grace which is greater than both, stand not against it.

To this Speech of the Lord *Steward's*, my Lord *Audley* thus answered.

May it please your Grace;

I Have bin a close Prisoner these six Months, without Counsel or Advice; I am ignorant of the Law, and but weak of Speech at the best; and therefore I desire to have the liberty to have Counsel to speak for me.

The Lord *Steward* replied; That his long Imprisonment was a special favour, for that it gave him time to bethink himself, and more than ever any Man had that had bin committed for such Offences; and that he should demand nothing which the Law can allow, but it should be granted.

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Then

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‘ Then his Grace desired to be resolved of the Judges whether the Prisoner’s demand to have Counsel to plead for him, might be granted or not? the Judges answered, that in criminal Causes Counsel is not to be admitted in matter of Fact, but in matter of Law it may.

Then the three Indictments were read, whereof two were for *Sodomy* with his Footman, and the third for a *Rape* committed upon his own Wife. Unto all which the Earl answered, *not guilty*; and being asked, how he would be tried, he answered by *God and his Peers*. Whereupon all the Peers put off their Hats, and the issue thereof was joyned.

The Ld. Steward’s Speech to the Lords.

The Lord *High Steward* addressed his Speech to the Peers, and said, ‘ My Lords, the Prisoner stands indicted for a *Rape* by one Indictment, and for *Sodomy* by two, and he hath pleaded *not guilty* to them all.

‘ It is my duty to charge you with the Trial of it, and you are to judge of it. The Offences wherewith he standeth charged are to be proved by Evidence. And because the Crimes that come this day before us, may in some breed Detestation, let your Reason sway your Judgments, and let that rule your Affections, and your Hearts and your Heads; for neither of those ought to be put into the Ballance, if a Grain on either side may sway the Scale.

‘ You are to give attentive Hearing, and then to weigh equally, that the Scale may lean the right way. The Judges will assist you in point of Law, which if you doubt of, you are to propound it to me, and I to them, and this your Lordships are to do without corporal Oath; For the Law conceiveth you of such Integrity, that you will do that for Justice, which others do upon their Oaths, and therefore admit of no Challenge. And God direct you to do as you ought.

Sir Thomas Crew opened the Charge.

Sir *Thomas Crew*, the King’s learned Counsel, opened the Charge against the Earl to this effect;

‘ The Person is Honorable, the Crimes dishonorable, so foul as Poet never invented, nor *Historiographer* wrote of: the one is a Crime of such rarity (let it be spoken to the Honour of our Nation) that we seldom or never knew the like; and the other such, the like hath scarce been heard of.

‘ But they are of such a pestilential nature, that if they be not punished, they will draw Vengeance from Heaven upon this Kingdom. His Majesty would have the Prisoner at the Bar heard with as much favour, as Crimes of this nature will admit. And when he first heard thereof, he gave strict Command that the Truth should be searched out, that his Throne and People might be cleared from so heavy and heinous Sins. Thereupon the Prisoner was indicted in his own Country according to the Law, and by Gentlemen of worth, the Bill was found; and now he is personally brought to this Bar, to be tried by his Honourable Peers, of whose Wisdom and Sincerity, there can be no question but he shall have a just and honorable Hearing.

‘ To begin with the Indictment of *Rape*; *Bracton* tells us of King *Athelstan*’s Law before the Conquest, *If the party were of no chaste life, but a Whore, yet there may be a Ravishment: But it is a good Plea for a Man to say she is his Concubine.*

‘ In an Indictment of *Rape* there is no time of Prosecution necessary: for

‘for *nullum tempus occurrit Regi*, but in case of an Appeal of Rape, if a Woman do not prosecute in convenient time it will bar her. If a Man take away a Maid by force and Ravish her, and afterwards she give her consent to Marry him, yet it is a Rape.

7 Caroli.

‘For the Crime of Sodomy, Our Law had no knowledge of it, till the 15th of Henry the 8th, by which Statute it was made Felony, and herein there is no more question but only this, whether it be *Crimen Sodomiticum sine Penetratione*. And the Law 15th Elizabeth sets it down in general; and where the Law doth not distinguish, neither must we.

‘Your Lordships will be curious how you give the least mitigation to so abominable Sin, which brought such Plagues after it, as may be seen in the 19th of Genesis, 19th of Judges, and 1st of the Romans.

‘It may seem strange how a Nobleman of his birth and quality, should fall into such abominable Sins; but he had given himself over to Lust. And when Men once habituate themselves unto evil, no marvel if they fall into any Sin.

‘Also he was constant in no Religion, but in the morning would be a Papist and go to Mass; and in the afternoon a Protestant and hear a Sermon. He believed not in God, he feared not God, he left God, and God left him to his own wicked way, and then what might not he run into.

‘Things are found in him beyond imagination, his intentions were bent to have his own Wife naught; if she love him she must love A. his Page, and he gives this reason out of Scripture, *she was now made subject to him; and if she did evil at his command, ’twas his fault, he must answer for it.*

‘His irregular bounty towards S. is very remarkable; him he loves and honours above all, not in any honest but a dishonest love, he calls him his *Favourite*, and lets him spend several thousand pounds a year; and if his Wife or Daughter will have any thing, they must lie with S. and have it from him, saying, that he had rather have a Child by him than any other.

The Witnesses were produced, who testified upon Oath, that A. coming to his bedside, when he was in Bed with his Lady, the Earl told her that her Body was now his, and if she loved him she must love A. and if she lay with another Man with his consent, it was not her fault but his, and that if it were his will she must obey and do it. And then he held both the hands of his Lady and one of her legs till his Servant did lie with her. Immediately thereupon the Lady would have killed her self with a Knife, but was prevented. It was proved that he used the body of one of his Men Servants as the body of a Woman. Also there were proved against him, such other particulars as are not fit to be named, nor come to the knowledge of the World, nor to be heard among Christians.

Witnesses produced.

Afterwards the Counsel for the King spake to the Lord High-Steward and the Peers to this effect, ‘That in so dark a business, a clearer proof could not be had. For let a Man be never so wicked, or never so impudent, he will not call Witnesses to see his wickedness, yet even this point is fully proved. And citing the 18th of Levit. they shewed that *by these Abominations the Land is defiled, and that God will visit the Land for this Iniquity*, and so concluded, That God may take away his Plagues, let this wicked Man be taken away from among us.

The King's Counsel concludes.

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The Lord
High Steward.The Prisoner's
Objections.The Judges
Answer.Lord High-
Steward.

The Prisoner.

‘Then the Lord *High-Steward* directed his Speech to the Earl, and told him he should be heard in his Defence, with as much patience as was admitted in his Charge, and advised him to speak pertinently.

‘The Prisoner alledging that he was a weak Man, of a bad memory, and desired he might not be interrupted, began his Defence, with Exceptions against his Wife, That she was by her own Testimony dishonest with *Broadway*. The Lord *High-Steward* answered, that this made against him, he ought not to alledge that Fact as an Imputation to his Wife, which he forced by violence.

‘Then he objected the incompetency of the Witnesses, his Wife and his Servants, that were drawn by his Son's practice, who sought his life; and he desired to know if there were not a Statute that expressed the incompetency of Witnesses.

‘The Judges resolved that there was none touching Witnesses; but in cases of High Treason there was a Statute concerning Accusers. Then he demanded if his Wife was to be admitted a Witness against him. The Judges answered, that in Civil Cases the Wife may not, but in Criminal or Capital Cases of this nature, where the Wife is the party grieved, and on whom the Crime is committed, she is admitted against her Husband. It was further propounded, whether it being proved that the party Ravished was of evil fame, or unchaste life, it will amount to a *Rape*? The Judges resolved it a *Rape*, though committed on a common Strumpet. For it is an inforcing of the Will that makes a *Rape*, and a common Whore may be Ravished against her will, and it is Felony to do it.

‘It was also propounded whether it was to be judged a *Rape*, when the Woman complained not presently; and whether there be a necessity of accusation within a convenient time, or twenty four hours? The Judges resolved, that in as much as she was forced against her will, and then shewed her dislike, she was not limited to any time for her complaint; that in an Indictment there is no limitation of time, but in an Appeal there is.

‘Lastly, it was propounded, Whether Men of no worth may be admitted as sufficient proof against a *Baron*. The Judges resolved, that any Man is a sufficient Witness in case of Felony.

‘The Lord *High Steward* speaking to the Prisoner said; My Lord, you have been graciously dealt with in this Proceeding; for it is not an usual favour in so capital and heinous Causes to bring the Parties and Witnesses face to face before Trial; but you have heard their Examinations long before, questioned and opposed them to their Faces, and are thereby better enabled to make your Defence. And his Majesty is still graciously pleased to continue his Goodness towards you, and hath commanded that you should be heard at full. If therefore you have any thing else to say for your self, speak it.

‘Whereunto he answered, and first made a solemn Protestation of his Innocency: But nevertheless implored the Mercy of God and his Peers, and presented to their consideration three Woes.

‘First, Wo to the Man whose Wife shall be a Witness against him.

‘Secondly, Wo to the Man whose Son shall prosecute and conspire his Father's death.

‘Thirdly, Wo to the Man whose Servants shall be allowed to be Witnesses to take away his life.

‘ And

‘And he willed the Lords to consider, that it might be their own Cases, or the Case of any Gentleman, or Man of worth, that kept a Footman, or whose Wife was weary of him, or whose Son being attained to Age, had a mind to draw his Servants into a Conspiracy.

‘That his Son was now 21 years of Age, himself being old and decayed, that his Son would have his Lands, and his Wife a young Husband. And that by their Testimony, and the Testimony of his Servants added to theirs, they had conspired his Death.

After this the Prisoner, being so required, withdrew himself from the Bar.

The Lord *High Steward* spake to the *Peers*, ‘That they having heard the Proofs, the Prisoner’s Defence, the Doubts and Questions resolved, might withdraw, if they were satisfied.

The *Peers* withdrew, and after an hour’s debate, with several Advices and Conferences with the *Lord Chief Justice*, whom they consulted four times; having also in that time sent the Earl of *Warwick*, and the Lord of *Dorchester*, together with the *Lord Chief Justice*, to consult with the Lord *High Steward*, they returned to their places.

Then the Lord *Steward* asked them one by one, beginning at the lowest, and so ascending, Whether the Lord *Audley* were guilty of the *Rape* whereof he stood indicted? and they all gave him in *Guilty*, the Lord *North* only excepted. Then whether he were guilty of the *Sodomy*? and in this fifteen of the Lords condemned him, and the other eleven freed him.

The Verdict being thus given up, the Prisoner was brought to the Bar to hear his Sentence, and the Lord *High Steward* spoke.

‘Forasmuch as thou *Mervin Lord Audley* hast bin indicted for divers *Felonies*, by three several Indictments, one for a *Rape*, the other two for *Sodomy*, and hast pleaded *Not Guilty* to them all, and for thy Trial hast put thy self on God and thy *Peers*; which Trial thou hast had, and they have found thee guilty, What canst thou say for thy self why the Sentence of Death should not be pronounced against thee?

Whereunto the Prisoner made answer, That he had no more to say, but referred himself to God’s and the King’s Mercy.

Then said the Lord *Steward*, ‘My Heart grieveth for that which my Tongue must utter; but this is the only way to cut off wickedness, hear therefore thy Sentence.

Thy Sentence is, ‘That thou go from hence to the Prison from whence thou camest, and from thence to the place of Execution, there to be hang’d by the Neck until thou be dead; and the Lord have Mercy on thy Soul.

And having thus pronounced the Sentence, he continued his Speech, and said; ‘O! think upon your Offences, which are so heinous and horrible, that a Christian Man ought scarce to name them, and such as the depraved nature of Man, which of it self carries him to all sin, condemns as unnatural. You have offended, not only against Nature, but beyond the rage of a Man’s jealousy; and though you do not suffer for abusing your own Daughter, and that having Honour and Fortune to leave behind you, you would have had the ‘spurious

7 Caroli.

The Peers withdraw.

They give their Verdict.

Lord High Steward.

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‘spurious Seed of a Varlet to inherit both, yet these are horrid Crimes. But, my Lord, it grieves me to see you stand out against the Truth so apparent. God might have taken you away when you were blinded in your sins, therefore I hope he hath reserved you as the Subject of his Mercy. He sends you to see this day of shame, that you might return unto him; and seeing he doth thus lovingly draw you to his Service, spend the remainder of your time in tears and repentance; and this day’s work, I hope, will be the correction of many Crimes and Corruptions.

At last the Lord *Audley* descended to a low Petition to the Lords, and very humbly besought them to mediate to his Majesty, ‘that he might not die, but be banished; at least, that his Majesty would not suddenly cut him off, but give him time of Repentance.

The Trial of
Broadway and
Fitz-Patrick in
the King’s Bench

In *Trinity Term* in the Month of *June*, *Giles Broadway*, and *Florence Fitz-Patrick* were tried in the *King’s Bench*. *Broadway* was he that Ravished the Lady *Audley*, while her Husband held her by force. *Fitz-Patrick* was he that committed the Sin of *Buggerie* with him, her said Husband; and both their Depositions were taken as Evidence against them. They were found guilty the 28th of *June*, in *Termini fine*, and the Judges of that Court presently sent these Letters under-written to the Lord Keeper to prepare him for the King.

Right Honourable,

The Judges
Letter to my
Lord Keeper.

May it please your Lordship to be informed, That this day *Giles Broadway* and *Florence Fitz-Patrick* were tried before us in the *King’s Bench*, for the several Offences of Rape and Buggery, of which they were Indicted, and they have received Judgment of Death. But we forbear the Awarding Execution, upon a Message from your Lordship by *Sir Thomas Fanshaw*, of his Majesty’s Pleasure for the stay of Execution, until further direction from his Majesty: But conceiving there is great cause to put the Malefactors to Execution, We thought it our duty to acquaint your Lordship with the Passages of the Trial, that his Majesty, by your Lordship’s means, being made acquainted herewith, may signify his farther Pleasure.

Broadway, who was Arraigned for the Rape, very impudently denied his own Confession, taken before the Lords and Peers at the Trial of the Lord *Audley*: He pretended he was amaz’d, and knew not what he subscribed, and professed himself Guiltless, with great Execrations, to the little satisfaction of those that heard him. He would not be satisfied, unless the Lady were produced face to face, which she was; who by her Oath, viva voce, satisfied all the Hearers, both concerning the truth of the Fact, and his Impudence.

Fitz-Patrick, who was Arraigned for the Buggery, confessed his Examination to be true; but like one very ignorant, or rather senceless, would have them true against the Lady *Audley*, but not against himself, which was impossible. He pretended he was promised security from danger, if he would testify against the Lord *Audley*, and so sought to raise a suspicion, as if he had bin wrought on to be a Witness to bring the Lord *Audley* to his end. They were both found Guilty, with full satisfaction to all that were present. And we for our parts thought it to stand with the honour of Common Justice, that seeing their Testimony had bin taken to bring

bring a Peer of the Realm to his Death, for an Offence as much theirs as his, that they should as well suffer for it as he did, lest any jealousie should arise of the truth of the Fact, and the justness of the Proceeding. But upon receipt of your Lordship's Message, we have stayed Execution till his Majesty's further Pleasure shall be known: To which we shall humbly submit our selves, and rest,

7 Caroli.

At your Lordship's command,

N. Hide. W. Jones.
J. Whitlock. G. Croke.

The King being by this means truly informed, signified his Pleasure, That they should be executed, but have a weeks time for Repentance. So the Judges appointed *Monday*, being the 4th of *July*, for the day of their Execution, when they were executed accordingly.

A New Order for raising of Money to the King's Use.

AT this time an Office was erected for the Sealing of *Playing-Cards*. Mr. *William Watkins* was put into that Employment, and *Henry Cogan* made Farmer of his Majesty's Duties accruing thereupon. On *June 7*, the Master and Wardens of the Company of Card-makers making some opposition to it, were sent for, and required to bring with them, as well the *Charter* and Ordinances of their Corporation, as the Seal by them taken lately from the said *Watkins*, and to attend the *Board* with the same; besides it was ordered, that *Fryer* and *Williams*, two of the said Cardmakers, should continue still in the custody of the Serjeant till further Order, and till afterwards that this Business was fully heard and settled for the *Patentees*, so that no Cards should be sold till they were sealed.

Playing-Cards
to be sealed.

But afterwards a Contract was made between the King on the one part, and the Master, Wardens, and Commonalty of the Mystery and Makers of *Playing-Cards* of the City of *London*, on the other part; wherein they did covenant,

'That they shall and will readily, and every Week in and throughout the whole Year, well, and Workman-like, make so many several Gross of good and Merchantable *Playing-Cards*, as in a Schedule thereunto annexed. And that they shall and will, from time to time, for ever hereafter, bring in, and deliver unto such Person and Persons as the King shall assign or appoint to receive the same, the said several respective quantities and proportions of Cards in the Schedule annexed.

'In consideration of the Premises, the King doth covenant with the said Corporation, that he shall and will answer, and pay unto the said Corporation for every Gross of the finest sort of Cards, accounting twelve dozen Pair to the Gross, 18 s. And for every Gross of *Matris Cards*, accounting eighteen dozen Pair to the Gross, and delivered in by them weekly as aforesaid, the like sum of 28 s. and so rateably and proportionably the Payments to be weekly made by the Officers or Agents of his Majesty and Successors for the time being; and they are to pay 3 s. 6 d. to his Majesty, to the Officer or Sealer of the said Cards.

The

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The like Contract was made between his Majesty and the Dice-makers of the City of London, paying their allotted proportion for every Bale of Dice.

Trin. 7. Car. B. K.

A new Court for them which were not of the King's Household.

The King's
Letter to the
Judges of the
King's Bench,
concerning a
New Court of
the Marshal of
the Household.

IT pleased the King's Majesty to write unto the Judges of the *King's Bench*, Letters in some manner expostulatory, as if they took exceptions at the erection of the New Court of the *Marshal of the Household*, to hold Plea *de non existentibus de hospitio Regis*; which Court was first erected by the Grant of King James, 15 Feb. 22 Jac. and again renewed with more perfection, as was conceived, in November, 6 Caroli. And a Writ of Error being brought into the *King's Bench*, upon a Judgment given in this Court, the Knight-Marshal fearing this new Grant would not be held good in Law, caused the King to write to the said Judges as afore said.

* Mr. Justice
Whitlock.

To which Letter, an Answer was sent to the King, penned by
* me per Mandatum Curie.

Dread Sovereign,

The Judges
Answer.

WE make bold to inform your Majesty, (in answer to your gracious Letter unto us of the 24th of June last) that about two years since, we were consulted with by your Attorney General, about the validity of Letters Patents of the 22 Year of your late dear Father, for the Erection of a new Court within the Verge, for those not of the Household; and the said Letters Patents were once read over before us, being assembled privately about that business, and Copies were appointed to be brought unto us, to take the better consideration thereof; but no Copies were delivered unto us, neither did we ever hear anymore of the Business.

We find it also to be true, that some against whom Judgments had bin given in the said Court, did bring them before us by Writ of Error, but did not proceed so far as to Argument or Judgment. And according to the New Patent sithence granted, we knew not of it until after it was passed, nor were ever acquainted with the penning or passing thereof.

We understand also that a Writ of Error is brought before us by Fisher against Wagstaff, upon a Judgment given in the last erected Court, which Cause hath proceeded no further than to the reading of the Record. And the Error assigned is only this, That neither of the Parties were of your Majesty's Household. But the day to hear Counsel not being yet come, we cannot understand till we hear them upon what points they will stand.

And your Majesty maybe pleased to be informed, that the Cause cometh before us by an Ordinary Court of Proceeding, which we cannot stop, neither did we know of the Cause, nor take notice of it, until the Record was read in Court. But when it shall be spoken unto, and we know what the Question will be, we will be exceeding careful and circumspect, according to our Oaths, that your Majesty shall not suffer any prejudice, or diminution in your Power Royal and Prerogative; neither do we make doubt but that your Majesty hath as full and as great Power, and high Prerogative,

gative, as any of your Noble Progenitors ever had, and we will ever maintain it to be so.

7 Caroli.

And whereas your Majesty's Pleasure is to be informed by us of the Defects in the said last Patent, We have not yet heard the Counsel open them, what they are that they mean to stand upon. Howsoever if it be Your Majesties Pleasure that we should by way of Consultation take that Point into our consideration, We humbly desire Your Majesty, That forasmuch as it is a matter of so great Importance, that Your Majesty will be pleased for Your better satisfaction, to give Order that herein we may have the Assistance of Your Judges of the Common-Pleas, and Barons of Your Exchequer. And we shall all endeavour to do Your Majesty true and faithful Service herein. And so we recommend your Majesty by our Prayers to the Protection of the Almighty, and rest,

Your Majesties Faithful Servants
and Subjects.

In the middle of July the Marquess of Hamilton having taken his leave of the King, met with the Forces out of Scotland which were to join with him in Yarmouth Road, their appointed place of meeting, thence he set Sail the 19th of July, the Fleet consisting of about forty Sail; The 25th they came to Elsenore Castle in the Sound of Denmark. The Marquess went on Shore to kiss the King of Denmark's hand, who lay at Frederick-stadt. The 29th they set Sail again, coming to an Anchor the next day by the Isle of Rugen. The 31st they Sailed into the Mouth of the Oder, betwixt Wolgast and the Isle of Usdom.

Marquess Hamilton takes leave of the King.

Arrives in Denmark.

The 2d and 3d of August were the Forces landed, being upon Muster above 6000 able Men, among which but very few sick, and only two died in the Voyage.

The two next days they were all armed and wafted over the River from the Isle of Usdome to Wolgast side, and there billeted in five Villages or Dorps.

Afterwards in Pomeran.

Hereabout they staid for the coming of 6000 Swedes Horse and Foot, which that King had promised should join with the Marquess's Army at their landing, to bring them through the Enemies Quarters to the King. But the Marquess being disappointed of the promised Forces to join with him, could not march up to the King, whereby he lost the Honour of being engaged in the Battel of Lipsick, which happened about a month after his landing on Wolgast side, to the great regret of himself and his Army.

He fails of 6000 Swedes to join with him.

On the 27th of July by order of the Privy-Council, came forth in print a Book, entituled, *Instructions for Musters and Arms, and the use thereof*; which in regard of the length thereof, and the Divisions and Fractions therein, as to the manner of Mustering, and handling of Arms, it is not mentioned in the body of the History, lest it should prove too tedious to the Reader, but it is put into the Appendix.

Printed Instructions for Musters and Arms.

At this time the Lords of the Privy-Council thought fit to write to the Lords Lieutenants of each County this quickning Letter, concerning the payment of the Muster-Master.

An. 1631.

A Letter from the Lords of the Council concerning the Muster-Master's place, directed to the Lords Lieutenants.

WHereas his Majesty is informed that the entertainments of the Muster-Masters within the several Counties of this Kingdom, altho' no more than was heretofore allowed and usually collected, are denied to be paid by sundry refractory Persons, who receive some encouragement to oppose so necessary a service for the common defence of his Royal Person and Dominions, by reason that the Lords Lieutenants and their Deputies make difficulty (or at least dainty) in setting their Hands to the said Assessments justly and equally set, as usually hath been accustomed, as well in the Reign of Queen Elizabeth, as of King James of blessed memory. Now for as much as exercising of the Trained Bands is by this means discontinued, with imminent danger to the State in general, which his Majesty in his Royal Office ought not to suffer: His Majesty hath therefore commanded us to signifie unto your Lordships, that it is his expresse pleasure, that you cause the said Muster-Masters entertainment to be rated according to the accustomed manner, by Assessment under your own Hands, and your Deputies; and if any Person or Persons of whatsoever quality, shall make refusal to pay the Rates so assessed on them, that then you take present order they be bound over, without any favour or forbearance, to answer their contempt before us. Now as his Majesty is thus graciously careful that the Muster-Master shall receive the Allowance due unto him for the exercising of that Service; so it is also his Majesties pleasure that your Lordships take especial care to see him diligently perform his Duty according to the importance of the said Service, &c.

Trained-bands to march to the Sea-Coast.

Likewise the Lords of the Council thought fit upon Reasons of State to order the *Trained-Bands* of several Counties to march to the Sea-Coasts for the defence of the Kingdom; and several Persons refusing to pay the Muster-Masters of the *Trained-Bands*, were sent for up by Messengers to the Council Table, where among others appeared *Edward Bulstrode* of *Chilton* in the County of *Bucks* Gentleman; but was discharged from any further attendance on their Lordships, upon giving his promise under his hand in writing to conform himself hereafter in paying the Muster-Master of that County his due, according to the Assessment of the *Deputy-Lieutenant*.

The like of *Henry Cavon* of *Crendon* in the same County, who was discharged of his attendance in promising to pay the Muster-Master his due in like manner as *Edward Bulstrode* did. The like for *Richard Pauly* and others.

A Memorial made by Mr. Justice Whitlock in his life-time concerning the Lord Rea's discovery of the Marquess of Hamilton's Conspiracy.

Judges Opinions concerning Rea and Ramsey.

PResently after my return from this Circuit, myself and the rest of the Judges of the King's-Bench, were sent for by the Lord-Keeper to London, to advise with him about the Affairs of his Majesty. We came thither on Monday 22 Aug. except the Chief-Justice, who was sick. The matter consulted of, was to give our Opinion concerning the Conference had in Germany between certain Scottish Gentlemen, about the making the Marquess of Hamilton the Head of a Party against the King and his Kingdoms of England and Scotland. The

'The Lord *Rea* a Scottish *Baron*, did Impeach *Ramsay* and *Meldrum* for moving him to this Conspiracy: They denied it punctually, and no Witness could be produced. *Ramsay*, a Soldier, offered to clear himself by Combat, that he was Innocent; and the Appellant accepted of his Offer. The King was desirous it should be put upon a Duel; and we were consulted with, 1st what the Offence was? 2^{dly} where the Trial might be?

7 Caroli.

'We all with the Lord *Keeper* were of the Opinion, 1st, That it was an high and horrible Treason, if that in the Examinations were found true. 2^{dly}, That the Trial might be by an Appeal of Treason, upon which the Combat might be joined: But the King must make a *Constable, durante beneplacito*, for the *Marshal* could not take the Appeal without him: That it must be after the manner of the Civil Law, and we were not to meddle in it. Likewise we were of Opinion that this Proceeding before the *Constable* and *Marshal* was, as it was before the Statute of the 35th H. 8. cap. 2. and that Statute devised a way how to try these Foreign Treasons in *England*, but did not take away the other. We were also of Opinion that the Stat. of 1st Mar. Cap. 10. did not take it away nor intend it; and that a Conviction in this Appeal was no corruption of Blood or forfeiture at the Common-Law. See *Doughtie's Case* in *Coke's Commentaries*, fol. 75. Sect. *Escuage*.

IN the Month of *September* this Year Sir *Henry Vane* Knight, Comptroller of his Majesties Household, and one of his Privy-Council, Ambassador Extraordinary to the Kings of *Denmark* and *Sweden*, and to other Princes and States of *Germany*, took his leave of his Majesty and embarked with all his Train in order to his said Voyage, and arrived at *Gluckstadt* situate upon the *Elb*, in *October* following, by whom his Majesty wrote this Letter to the Marquess.

Sir *Hen. Vane* sent Ambassador to the Kings of *Denmark* and *Sweden*.

James,

According to my Promise I have dispatched *Henry Vane*, whom I have commanded to impart unto you both his publick and private Instructions, so that it will be a good excuse for my Laziness in writing short unto you, and a Testimony to you that your absence neither makes me alter nor forget you; for you may be assured that my trust of you is so well grounded, that it lies not in the power of any body to alter me from being,

The King's Letter to Marquess *Hamilton*.

Hampton-Court,
Sept. 21. 1631.

Your loving Friend
and Cousin,
C. R.

The Ambassador was no sooner gone on his Voyage to the King of *Sweden*, but before his arrival in *Germany*, that King gave the King of *Great Britain* an account of the Victory obtained over *Tilly* at the Battel at *Lipsick*. The Letter followeth.

Gustavus Adolphus, &c. Since we are satisfied of the constant Propensity your Serene Majesty hath for us and the publick Good, and that which happened to us successfully, and for the good of endangered Christianity, that your Serene Majesty did also bear a part therein, we would not omit the certifying your Majesty of the memorable Victory, which Divine

The King of *Sweden* writes to the King of *Great Britain* of the Battel of *Lipsick*.

An. 1631.



Goodness afforded us. After the Elector of Saxony had join'd his Forces with ours, we marched against the Enemy with both Armies, and the Enemies Army under General Tilly opposed us Septemb. 7. having drawn out all his Forces a mile from the Fortress at Lipsick. The Battel being begun, the business was briskly managed on both sides for the space of 4 hours and upward, till at last, by the singular blessing of God, the Enemies Army, by the indefatigable valour of our Men, was put to flight, and dissipated, we pursuing them to the very Walls of the City. The Enemy left us their Cannon and Baggage. The General retired into the Bishoprick of Halberstadt, having received a Wound, they whom we pursued being left to our Souldiery and Mercy. Many of the Enemy lay dead in the Field where the Battle was fought, and among them the Sergeant Major General, and other Commanders in the Army. Among some thousands of Prisoners, the Duke of Holstein was one, and some others of the most eminent quality. The praise of which Successes is due to Almighty God, and ought deservedly to be attributed to his Goodness, and we hope, not only the so much desir'd wishes of so many thousand People of restoring Religion and Liberty, but also the facility of setting up the afflicted Cause of the King of Bohemia, shall now manifestly appear. We do not therefore distrust but that your Serene Majesty will prosecute this Victory, not only with Joy and Affection, but also make use of so fair an opportunity, and that it will be your Royal Care to judge of all things henceforward to be conferr'd upon, and to consult of those things which relate to Christianity and their safety by your Heroick Counsels. We will not any farther trouble you, but commend your Serene Majesty to the Divine Protection for the happy increase of all things. Dated at Hall of the Saxons, the 13th of September 1631.

Septemb. 17.
1631.

Your Serene Majesty's
Good Brother and Allie,

Gustavus Adolphus.

A Relation of the Battel by Lipsick, written by Gustavus Horn, the Lord Marshal General to his Majesty the King of Sweden.

AS soon as the King of Sweden had resolved to give assistance to the Duke of Saxony, whose Country the Enemy had already invaded, upon the 3d of September, he passed his Army over the Bridge at Wittenburgh, and joined himself with the Armies of the Dukes of Saxony and Brandenburg, at Tuben, the 5th ditto, where first they deliberated and consulted in what manner they might best encounter the Enemy, and whether it were wisdom to bring it to a Battel presently, or by delay of time to break and weaken the Power of the Enemy. His Majesty was of opinion not to set all upon Fortune, much less to put their whole State in danger by the event of an uncertain Battel; yet, for all that, the Duke of Saxony insisted still for a Battel, saying, That there was no other means to drive the Enemy out of his Country, much less was it possible that both these Armies could be furnished of all necessaries, especially because the Enemy had incorporated the best part of the Country. And therefore he thought fit in wisdom to

to approach towards the Enemy towards *Lipsick*, and to encounter him with all their Might. Whereupon the King, with the foresaid Duke, upon the 6th of *September*, marched with their Armies within two miles of *Lipsick*; which Town *Tilly* by Composition had taken in, as also the Castle; both which, by reason of bloody threatning, submitted themselves to *Tilly*: Whereupon we followed the 7th ditto, and met the Enemy a mile from *Lipsick*. Notwithstanding the Enemy had both the Wind and higher Ground of us for his advantage, yet for all that we skirmished very lustily with each other in good order, both with Ours, as also with the *Saxon's* Army. The King's Army upon the right hand, and the *Saxon's* Army imploied upon the left hand. The King's Army was divided into the Avant-guard of the right Wing, which the King himself commanded, and there stood also the most and best Armed Horsemen, interlaced with certain Musquetiers, in the Rere-guard of the said Wing, commanded by General *Bannier*. In the Vaunt-guard of the Battel, stood four Squadrons of Pikes and Musquetiers, who were commanded by these Chiefs, Monsieur *Duivell*, *Acko*, *Oxenstern*, *Erentruiter*, *Hardt*, and *Winckle*. In the Rere-guard of these Battails there stood three other Squadrons, the Count of *Thurn*, *Hebron*, and *Vitfdum*; and after these, two Regiments of Horse upon the left Wing, by whom his Majesty appointed *Gustavus Horn*. The rest of the Horse were divided into the right Wing, the Vaunt-guard and the Rere-guard mingled with Musquetiers. In this order was the whole Army set, so that we got half-wind of the Enemy; yet they kept the advantage still of the higher Ground, where he had planted his Artillery. We marching thus in their sight, through a foul Passage, the Enemy did some harm with his great Pieces on our Troops, chiefly among those that were with *Gustavus Horn* upon his left hand. And hereupon with his left Wing (where the greatest strength of his Horse was) fell upon our left Wing. But whilst they were thus busied to gain Ground more and more of us, and to get the Wind, as they thought; the Horse and the Foot Regiments of the Duke of *Holstein* retreated from the *Battalia*; and the right Wing perceiving that the commanded Musquetiers of our right Wing were mingled among the Horse, and had hard Entertainment of the Enemy, they drew more to their left hand; and so the Enemy charged more upon the Reserve of our right Wing, than upon the Vaunt-Guard, which his Majesty caused very seasonably to be seconded with some Troops, in such manner, that the Enemies left Wing with little ado was broken and put to flight. The Enemies Battel, consisting of all his Foot, being divided into four great *Spanish* Battalions of sixteen Regiments, upon this marched from the Hill, together with their Horse: But in regard they were so annoyed with our Artillery which were placed upon our left Wing, they so turned their Order, that most of them fell upon the Duke of *Saxon's* Army to their disadvantage; but all their Horse fell upon our left Wing, who were soon dispersed and put to flight. And contrarily the Footmen of the Duke of *Saxony* almost fled the Field; yet whilst the Enemy pursued the *Saxons*, our left Wing charged into their Flank, and upon the two Troops of Reserves; and in this posture we fought long, and lost many of our Horse. Yet, finally, after *Gustavus Horn* had soundly charged the Enemies Battail with that Regiment of *Gothland* Horse which his Majesty sent him for an assistance and succour, together with the

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the commanded Musquetiers which had bin placed in the left Wing by the King, so that they began to grow very thin, and were diminished, their Battel presently broke, and they were all put to flight excepting four Regiments; who by reason of the Smoke and Dust, were so shadowed from our fight, that they saved themselves.

After this Defeat his Majesty marched to *Hall*, and took in the Town and Castle; then marched forward, and took in *Posewald* and *Querfurt*. The Duke of *Saxony* marched towards *Bohemia*. His Majesty took in *Erfurt*, *Gota*, *Hamelburgh*, *Mulhousen*, and *Werburch*. The 20th of *October* his Majesty came to *Franken*, took *Carelstadt*, with the Bishopricks of *Wittsburgh* and *Bamburgh*. The *Landgrave* of *Hessen* took *Fulda*, *Vach*, and *Fritzlaer*; He came into *Westphalia*, and took *Paterborn*, with some other Places; *Rostock* rendered upon Composition to the Duke of *Mecklenburgh*. The King's Forces took in *Dunckenspil*, *Nortlingen*, *Rotenburgh*. *Magdenburgh* was strongly besieged. His Majesty took in *Hanaw*, *Franckford*, and *Hougst*. The *Saxons* took in *Glockow*, and defeated the Emperor's Men by *Croffen*. The Count of *Thurn* took in *Prague*. The King's Men beat the Emperor's Men by *Warheim*; defeated also the Souldiers of the League by *Sweynfurt*, and also by *Elleboghen*. His Majesty passed the River of *Rhine*, and took in *Mentz*, *Worms*, *Oppenheim*, and almost all the Towns of the *Lower Palatinate*.

Mr. Ford, Thorn, and Hodges appeal to the Proctors; being questioned for preaching against the King's Instructions, Aug. 23.

Cause heard before the King.

The Bishop of London's Memoir, Aug. 23.

Mr. Thomas Ford of *Magdalen-Hall*, Mr. Giles Thorne of *Balial College*, and Mr. Giles Hodges of *Exeter College*, in their Sermons at *St. Maries*, used Expressions against the *Arminians*, under the Title of *Pelagians*, and *Demi-Pelagians*, for which they were Convented before the Vice-Chancellor, Dr. Smith, and others, as Offenders against the King's Instructions. They appealed from the Vice-Chancellor to the Proctors, who received their Appeals. Hereupon the Bishop of *London* complains to the King of this Matter; and the King appointed to hear the Business at *Woodstock*, on the 23d day of *August*. Concerning which Persons and Proceedings before the King, the Bishop of *London* makes this Memoir, viz.

In *June* and *July* were the great Disorders in *Oxford*, by appealing from Dr. Smith, then Vice-Chancellor. The chief Ringleaders were the said Mr. Ford and Mr. Thorne. And the Proctors, Mr. Bruch and Mr. Doughty received their Appeals, as if it had not bin *perturbatio Pacis*. The Vice-Chancellor was forced in a statutable way, to appeal to the King, who with all the Lords of his Council then present, heard the Cause at *Woodstock*, *August* 23. 1631. being *Tuesday* in the Afternoon.

The Sentence upon the hearing was; That Ford, Thorne, and Hodges, should be banished the University; and both the Proctors were commanded to come into the Convocation-House, and there resign their Office, that two others might be named out of the same Colleges. Dr. Prideaux, Rector of *Exeter College*, and Dr. Wilkinson, Principal of *Magdalen Hall*, received a sharp Admonition for their misbehaviour in this Business.

The Crimes of these young Divines are more particularly set down in the University-Register.

1. Mr. *Hodges* was ordered to make a publick Recantation-Sermon in *St. Maries Church* in *Oxford*, before the *University*, confessing his great Offences in Preaching contrary to his Majesties Declaration.

7 *Caroli.*

2. That he should make a Submission and Recantation, penned to his hand in the Convocation-House, before the whole Assembly of the Doctors, Proctors, Regent and Non-Regent Masters, on his bended Knees.

In which Recantation he did acknowledge, 'That he fell upon the 'delivery of those Points, which by his Majesty's Royal Injunction 'were forbidden him to meddle with at all; and particularly did acknowledge that he let fall some passages, which might be taken to 'the disparagement of the Government of the Church, in making 'erroneous and Heretical Opinions the way to preferment; craving 'the Pardon of the University in the general, and more especially of 'the most Honourable Chancellor of that University.

Mr. *Ford* refused to make any Address to be restored to the University: and it being intended by some to chuse him a Lecturer in the Town of *Plimouth*, they were required not to chuse him upon pain of his Majesties displeasure.

At this time it was a great Eye-sore, that the *Goldsmiths-Row* in *Cheapside*, which hath ever been a great Ornament to the City, should grow to be intermixed in a broken fashion with Shops of meaner Trades, which did disparage the City: whereupon the King declar'd his pleasure, that that Deformity should be taken away, and it being debated at the Council-Table, the *Recorder* and some Aldermen present, it was refer'd to the two Lord Chief Justices, and other Judges, to consider what Laws or Statutes there are to enforce *Goldsmiths* to plant themselves for the use of their Trade in *Cheapside* and *Lombardstreet*: but after several Debates before the King and Council, it was ordered, that the Company of *Goldsmiths* should take order that within a short time limited, *Goldsmiths-Row* in *Cheapside* and *Lombard-street* should be supplied with *Goldsmiths*; and that those who keep Shops scatteringly in other parts of the City, should have Shops procur'd for them in *Cheapside*, or *Lombard-street*, upon penalty, that those of the Assistants and Livery, that did not take care herein, should lose their places. And it was further ordered, for the time to come, that all such who should serve their Apprenticeships to *Goldsmiths*, and thereupon were made Free, should enter into Bond, not to keep a *Goldsmith's Shop* in any other part of the City, than in *Cheapside* or *Lombard-street*, and that the Lord Mayor should take care, that Shops be provided for them at moderate and indifferent rates.

Novemb. 18.
Goldsmiths in
Cheapside.

Mr. Justice *Whitlock* thought fit, with his own hand to set down in writing this Memorial concerning Sir *Nicholas Hide*.

'That Sir *Nicholas Hide*, Knight, Chief Justice of the King's Bench, 'died at his House in *Hampshire*, since the last *Trinity Term*, to wit, 'upon *Friday* the 26th of *August*, 1631. How he was made Chief-Justice, and when, vide lib. A. f. 119. Hill. 2. Jac. He lived in the 'place with great Integrity and Uprightness, and with great Wisdom 'and Temper, considering the ticklishness of the times. He would never 'undertake

Judge *Whitlock's* Character
of Sir *Nicholas Hide*.

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‘undertake to the King, nor adventure to give him a resolute Answer
 ‘in any weighty Business, when the Question was of the Law, but he
 ‘would pray that he might Confer with his Brethren. And the King
 ‘ever gave way to it. He died of a hot Fever, but made incurable
 ‘by reason that an Impostume brake in his Head in the time of
 ‘his sickness. He was a spare lean Man of Body, and of an excellent
 ‘temperate Diet, and promised long life by his Temperateness, to those
 ‘that conversed with him; he was 59 Years of Age in *May* last.

In order to a Commission under the Great Seal, dated the 24th of *November*, there began a notable Trial, before *Robert* Earl of *Lindsey*, Constable of *England*; and *Thomas* Earl of *Arundel* and *Surry*, Earl Marshal of *England*, in the Court of *Chivalry*, judicially sitting in the Painted-Chamber at *Westminster*; together with other Honourable Persons, namely *Philip* Earl of *Pembroke* and *Montgomery*, Lord Chamberlain of the King's Household; *Edward* Earl of *Dorset*, Lord Chamberlain of the Queen's Household; *James* Earl of *Carlisle*; *Edmund* Earl of *Mulgrave*; *William* Earl of *Morton*; *William* Earl of *Stratherne*; *Edward* Vicount *Wimbleton*; *Thomas* Vicount *Wentworth*; *Henry* Vicount *Faulkland*; and Sir *Henry Martin*, Judge of the High Court of *Admiralty*, all of Counsel with the Court; *Gilbert Dethick* being Register. And first *William Seager*, King of Arms, presented to the Lord Constable of *England* Letters Patents of the tenor following.

CAROLUS Dei Gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ, Rex, fidei Defensor, &c. predilecto & per-quam fideli Consanguineo & Consiliario nostro Roberto Comit. Lindsey summo Camerario Angliæ salutem. Cum officium Constabular. Angliæ vacans Existat, ac Donaldus Mackay Dominus Rea Nuncupatus in Regno nostro Scotiæ Oriundus, quendam Davidem Ramsey Armiger. In eodem Regno nostra ortum, de quibusdam Contemptis & proditiombus contra nos in partibus transmarinis actis & perpetratis, in Curia Militari appellare intendit, Et nobis Supplicavit sibi iustitiam, super Appellatione predicta exhiberi. Nos in hac parte fieri volentes, quod iustum est ac de fidelitate & provida circumspectione vestra plenius confidentes vobis concessimus Officium Constabular. Angliæ (hac vice) ad Appellationem predictam Donaldi in hac parte una cum predilecto & per-quam fideli Consanguineo ac Consiliario nostro Thoma Comite Arundel & Surr. Mareschal. nostro Angliæ audiendi, & sine debito terminandi. Et omnia que ad Officium Constabular. pertinent in Causa & Negotia predictis; faciendi, & Exercendi, secundum Legem & Consuetudinem, Armorum & Curie Militaris Angliæ vobis, ut predictum est, Auctoritatem damus & committimus, tenore presentium: Et ideo vobis Mandamus, quod circa premissa una cum prefato Marescallo intendentes sitis, in forma predicta: damus autem Ducibus, Marchionibus, Comitibus, Vicecomitibus, Baronibus, Justiciariis, Ballivis, prepositis & Ministris, & Aliis fidelibus nostris universis & singulis, tam infra libertates, quam extra, tenore presentium in Mandatis quod vobis in premissis faciendi, & explendi, intendentes sint, & Consulentes, Respondentes, & Auxiliantes, quoties & prout per vos fuerint super hoc premoniti ex parte nostra. In cuius rei Testimonium has Literas nostras fieri fecimus Patentes. Teste me ipso apud Westm. vicesima quarto die Novemb. Anno Regni nostri septimo.

Per ipsum Regem.

Which

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Which Letters Patents being read by the Register of the Court, *Donald Lord Rea*, the Plaintiff; and *David Ramsey*, Gentleman of the King's Privy-Chamber, Defendant, made their personal appearance. Then the Lord Marshal spake in defence of the Court of *Chivalry*, and the manner of proceeding therein, according to the Law and Custom of Arms, shewing;

‘That it was legal and agreeable to Right and Justice, as any Judicial Process in any other Court of this Realm; especially when the nature of the Cause required it. And that in these latter Ages this kind of Trial hath not bin frequently used, but that was to be attributed to the pious and peaceable Government of the State, under our most happy and prudent King, and his most Illustrious Predecessors, the Kings and Queens of *England*, and the Obedience and Fidelity of the People of *England*; both which are to be ascribed to the favour of Almighty God, conferring this blessing upon our Nation above all the Nations round about us.

The Lord Marshal further shewed; ‘That it was an Error in many, to apprehend, that as soon as an Appeal is brought into this Court, it was presently to be decided by Duel; when as Dueling was the ultimate Trial in defect of all others. And even then it was in the Arbitriment of the Court, Whether a Duel shall be granted or denied?

The Earl Marshal's Speech being ended, *Arthur Duke*, Doctor of the Civil Law, made a Speech concerning the Antiquity, Jurisdiction, and Necessity of the Court of *Chivalry*, held by the Lord High Constable, with the Earl Marshal, especially in Cases of Treason, where the Truth can no otherwise be discovered.

Then *Rea* and *Ramsey* were called into the Inner Court, and the one stood on the right hand, and the other on the left of the Lord Constable, and Earl Marshal.

The Lord *Rea* presented his Appeal in Writing; and his Petition formerly exhibited to the King, was read in these words.

To the King's most Excellent Majesty.

The humble Petition of Donald Lord Rea.

Most humbly sheweth,

‘THAT whereas he having heard sundry Speeches fall from Mr. *David Ramsey*, importing Plots and Practices against Your Royal Crown and Realms, did, according to his Duty and Allegiance, reveal the same to Your Majesty; the Truth whereof he is ready to maintain with the hazard of his Life, and dearest Blood, if he be thereunto required. Now so it is (may it please Your Sacred Majesty) that Your Petitioner (being informed by his Counsel) That these Trials, by Duel, or single Combat, are *ultimum Remedium*; And that a Man may not appeal to this kind of Divine Judgment, but where all possibility of discovery by ordinary Trials fail, and cannot be had. And whereas Your Suppliant, at such time as he disclosed all the Practices which he heard from the said *Ramsey*, and did withal discover what he heard likewise from *Robert Meldrum*;

The Lord *Rea*
his Petition.

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against whom also one Captain *James Borthwick* hath been examined, and the Examination of *Meldrum* taken thereupon. And your Suppliant conceiving that if *Meldrum* be guilty, the said Mr. *Ramsley* cannot be innocent, your Suppliant therefore, not out any inclination to decline the Combat (as God who knoweth his Heart can witness with him) but only out of his sincere desire to have the truth discovered, in a Case so highly concerning your Majesty's Safety, Honour and Government, most humbly prayeth, that you would be graciously pleased, that *Meldrum* may be first proceeded against according to Law, and if upon his Tryal, the Conspiracy affirmed by your Petitioner do not fully appear, he shall then with all alacrity (as in a Case which otherwise cannot be cleared) justify his Assertions to be most true; either as a Defendant against the said *Ramsley*, (who demanded the Combat of him before your Majesty) or as a Challenger if the Court of *Chivalry* shall so award, and shall be bound in all Duty ever to pray for your Majesty's long life and happy Reign.

The Petition being read, the Lord *Constable*, with the Counsel of the other Nobles, declared his Majesty's pleasure, that this Cause should be tried in this Court, and gave the Appeal to be read as followeth:

In the Name of God, Amen. Before you, most Illustrious and Right Honorable Lords, *Robert Earl of Lindsey*, Constable of England, and *Thomas Earl of Arundel and Surry*, Marshal of England, or your Lieutenants in this Court-Marshal: I *Donald Lord Rea* do accuse and Challenge thee *David Ramsley* in the month of *May* or of *June* in the Year of our Lord 1630, and in the sixth Year of the Reign of our Lord *Charles*, by the Grace of God King of England, Scotland, France, and Ireland, being then alone in my Ship within or near the Port of *Elsinore* in the Kingdom of *Swedeland*, in the upper part or Deck of the said Ship, when thou hadst this discourse or the like, and spakest these or the like words to me in English, viz. You told me many abuses in the Court of England, and that there was nothing to be looked for but Desolation and change of Religion, and therefore you had retired your self thence, since no honest Man could live there, and with many such discourses you laboured to possess me: to which my Answer was, The Lord mend those evils, and no remedy but Patience. By God *Donald*, said you, (I will use your own Phrase) *we must help God to amend it*. You told me you had brought as much Gold with you as would maintain you at the rate of six pounds a day for three years, and you assured me before that time would expire, God would raise up some Men to defend his Church, and liberate honest Men from Slavery. I desired if you could tell if the Marques of *Hamilton* would come over? you said he would the morrow or next day. After I asked you what content my Lord Marques had at home? you said, none. I asked you what Religion my Lord Marques was? you said, a good Protestant, and before it be long he would let the world see his Design was for the defence of his Religion, and the Glory of God, and that he should have an Army so well provided with brave Men, and all Warlike Provision, that he should not need to be afraid with whom he Encountered. I asked you what advantage was it to us to

make

'make a free passage for the Gospel in *Germany*, if we lost it at home?
'You said there were many honest Men in our Land, speaking of
'*Scotland*, adding if we had once an Army over, what would you
'think if we should take a start to settle them also, for ere it be long
'you will hear our Country will go together by th' Ears, so closing that
'night's discourse. He says at last, some such thing perhaps is intend-
'ed, but I will not tell you more, for my Master's Secrets are dear to me.
'The third night after, in an *Island*, you told me that *Alex. Hamilton*
'and Sir *James Hamilton*, were to go for *England*, and you for *Hol-*
'*land*, and in the mean while pretended your self willing to do me
'Service in *England*. I told you I had a promise of the Reversion
'of *Orkney* from the King my Master; if the *Marquess* would mediate
'with his Majesty for it, he would do me a great kindness, and I said,
'It were good for my Lord to have a Friend in that place for his
'ends. You moreover asked me, if there were good Harbours in
'*Orkney*, or in my Land, or in any part that might be fortified? I
'said, Yes. You said, *By God it was to be thought upon*; and you de-
'sired leave to think upon it that night, and on the morrow *You* and
'*Alexander Hamilton* did desire me to write a general Letter to the
'*Marquess*, with trust to the Bearer, *Alexander Hamilton*, concern-
'ing *Orkney*, lest Letters should miscarry, with great Assurance of
'true Friendship from your Master, if I would continue constant in
'Resolution, and so I gave you my Letter.

'Afterwards in *March* last past, you came to me from the *Hague*
'in the *Low-Countries* to *Amsterdam*, where you stayed with me eight
'days, and delivered me a Letter from the *Marquess*, only of Com-
'pliment and Thanks, and you told me all went right with the *Mar-*
'*quess*, That he had gotten from his Majesty 10000 *l.* in *England*, and
'the Wine Customs of *Scotland* for sixteen years, which the *Marquess*
'would sell, and all things went on without any demur or obstacle,
'and the only stay was for want of Arms, Ammunition, and especial-
'ly Powder, and desired me to put in hard with the *Swedish* Embas-
'sador, which I did, and you told me that the *Marquess* had writ to
'you, that if the Arms and other Provisions were obtained, they should
'be sent to *England*, and not to *Scotland*; at which you did marvel,
'because his Lordship had changed his Resolution, being all the o-
'ther Provisions were sent to *Scotland*. Also you told me, that my
'Lord had sent over a Man to receive them, as I desired. I told
'you the Letter which Mr. *Lindsey* brought me, desired the Arms
'to be sent to *England*. You said, though the Arms were had, yet
'you would not send them till you had further order from the *Mar-*
'*quess*, and you desired me to haste to you the Answer thereof. In
'the end you told me you had evil News to tell me, that the *Mar-*
'*quess*'s Lady was brought to Bed of a Child.

'Some few days after, in *March* or *April* last past, at *Delf* in the *Low-*
'*Countries*, I told you that I had a Letter from the King of *Sweden* to
'the King of *Britain*, desiring some Ships for the *Marquess*. You said
'the *Marquess* and I must beware of that, for then they will think that
'we mean to take their Land from them with their own Ships. I ask-
'ed you, where our Forces should meet? You answered me, on the Sea.
'I asked you, where we should land? You said in some part of your
'old Master the King of *Denmark*'s Country. You asked further,
'What think you if we should plunder some nook of his Land, and

'there-

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* Meaning the
Marquess and
his Accompli-
ces.

thereafter go where we please; for we think * he will be the only Man that will be most against us. I answered, I am content; for he rests in him more than you all. I asked if my Lord was to raise any Men in *England*? You said, one Regiment. I asked you if they would be true to us? You said that there were *English* that my Lord was as much assured of as of any *Scots*. I asked, where we should make these meet? You said at *Harwich* or *Yarmouth*. I asked if they were fortified? You said, that no parts of all those Coasts in *England* or *Scotland* could hold us from landing. I told you that I feared Mr. *Meldrum* was an evil Secretary; you asked me wherein? I said, that *Meldrum* had told me many things, and that I thought he had told it to others: you said Mr. *Meldrum* knew nothing thereof when you came from *England*, tho' he might well suspect, and that he spake once to you to that time, as if all were ours, and that you had great patience to hold your hands off him although he was your Cousin. I told you that I was not a Souldier of Fortune; but had bread at home, and might live without hazarding my self in the Fortunes of War, yet notwithstanding that I would hazard my Life and Fortune with the *Marquess*, only that I would know the business. You answered, you would tell me no more of your Master's Secrets, but that you would write a Letter with me to the *Marquess*, and when I came there, the *Marquess* would infuse in me that which you would not; withal you desired me not to tell the *Marquess* what had passed betwixt you and me, whereby the *Marquess* should have all the thanks to himself; adding that he was very close, and that he would discover himself to them that he knew would hazard with him. That my Brother-in-law *Seaforth* knew all, and that the *Marquess* trusted him much. I asked you what was done in my business of *Orkney*? You told me, nothing till my coming, and said, It might be I should have it better cheap than to pay the Duty of it; and you told me *England* had made a Peace with *Spain*, very prejudicial to *Holland*; and that *Spain* and *France* were both striving who should first drink up *England*, but you hoped we should prevent them both. Besides you told me the lack of Powder was the greatest Let. As for Arms we might get help thereof in every House, and that we had reasonable provision thereof already; and that my Lord had written to you that he had 90 Pieces of Cannon great and small already provided. I desired you to go in person and speak to the *Swedish* Ambassador for the Powder, and to advertise me in the *Brill* of his Answer, that so I might assure the *Marquess* what he might expect; and you did send a Letter by one of your own Men to the *Brill*, to shew me that you were with the Ambassador, and hoped to have that which we spake of. You asked my advice whether it were best to cross the Seas once, or to go on bravely? I answered, *Delays were not good*, which you did condescend unto, or you used words and speeches to that effect.

But if thou the said *David Ramsey* shalt deny the Premises, or say thou hadst not the same Discourse, or to the same effect with me, at the foresaid times and places; I the foresaid *Donald Lord Rea*, say and affirm, That thou *David Ramsey* art a false Traitor, and lyest falsely. And in case the Premises cannot otherwise be found out by the Sentence of this Court, proffer my self ready by the help of God, to prove and justifie this my Accusation and Appeal, by my Body upon thy Body, according to the Laws and Customs of Weapons in a Duel, to be performed in the presence of our Lord the King, &c. Which

7 Caroli.

Which Challenge being publickly recited, the said *Donald Lord Rea*, the Party challenging, threw his Glove in the Court, of a red or brown Colour for a Pawn or Pledge, in presence of the aforesaid Lord *Constable*, and *Thomas Lord Marshal*, in confirmation of all contained in the Bill and Challenge.

Then the said *David Ramsey* answered in his own Person, and said, 'That the said Bill and Appeal was and is false, and that the said *Donald Lord Rea*, the Appellant or Challenger, did lie falsely, and that he was ready to justify and prove this in Duel, according to the Laws and Customs of Arms, and of this Court, by his Body upon the Body of the said *Donald Lord Rea*, as it should seem good to the Court.

Ramsay's Defence against Rea.

And thereupon in confirmation and justification of the Premises, he threw his Glove in the Court, of a white colour, for his Pawn, or Pledge, in presence of the Lord *Constable*, and Earl *Marshal* aforesaid; Which Gloves respectively *Richard St. George*, otherwise *Clarenceux*, King of Arms, took up and delivered into the hands of the said Lord *Constable* with due reverence; and the said Lord *Constable*, together with the Earl *Marshal*, committed them to the custody of the aforesaid Register of the Court. Then the said Lord *Marshal* arrested, as well the said Lord *Rea* the Challenger, as the aforesaid *David Ramsey* Esq; the Defendent. And the said *Donald Lord Rea* produced Sir *Robert Gordon*, Sir *Piercy Crosby*, Sir *Walter Crosby*, and Sir *William Forbes* Knights and Baronets, and *William Innis* Esq; for his Sureties, who obliged themselves all, and every of them, & *divisim* & *conjunctim*, to our Lord the King, for the said Lord *Rea*, Body for Body, that the said Lord *Rea* should duly prosecute this aforesaid Challenge, to the final and last determination of the same; and that in the mean time the said Lord *Rea* should keep the Peace of our Lord the King, against all and every of his Lieges, and especially against the aforesaid *David Ramsey* Esquire.

And the said *David Ramsey* produced for his Sureties, the Right Honourable *James* Earl of *Abercorne*, and *Robert* Earl of *Roxborough*. Then the Earl *Marshal* aforesaid released *Donald Lord Rea* the Challenger, and the aforesaid *David Ramsey* Defendent, from the aforesaid Arrest, and at their request respectively delivered their Bonds of Suretiships to be cancelled.

After this there was read in the Court, the Lord *Rea's* Petition to the King, for divers Noblemen and others to be of his Counsel in this Cause; whose Names he presented in a Schedule annexed, as they are here recorded.

To the KING's most Excellent Majesty,

The Humble Petition of Donald Lord Rea.

HUmblly beseeching Your Royal Majesty in this Cause of Appeal against *David Ramsey* in the Court of *Chivalry*, to grant unto the said Petitioner, that he may have the Parties, whose Names are in the Schedule hereunto annexed, to be of his Counsel in the said Court. And he shall daily pray for Your Majesty's long Life, and happy Reign over us.

The Lord Rea his Petition to his Majesty.

George

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*George Earl of Lyncey, Lord Gorden.**Miles Vicount Mayo.**Theobald Baron of Brillis.**Maurice Roch, Son and Heir of the Vicount Fennoy.**Donnough Mac Charty, Son and Heir of the Vicount Muskery.**Sir Robert Gordon.**Sir Pierce Crosby.**Sir Walter Crosby.**Sir William Forbes.**Donnough O Conno Sligo.**James Hay Esq; of his Majesty's Body.**William Innis Esquire.**Dr. Rives. Dr. Duck.**Mr. Selden, } of the Inner Temple.**Mr. Littleton, }*

Upon which his Majesty issued out the following Order.

The King's
Order upon
the Petition.It is his Majesty's Pleasure, That only these should serve, both
for his Friends to advise him, and his Counsel to plead for him.*Ramsey's Defence.*

In the Name of God. Amen. In the presence of you most Illustrious and Right Honourable *Robert Earl of Lindsey*, Constable of *England*, and *Thomas Earl of Arundel and Surrey*, Marshal of *England*, or your Deputies in your Court Marshal; I *David Ramsey Esq;* Defendent, say and affirm, That all and every the things contained in the said pretended Appeal and Accusation, were and are false, and suggested and proposed against me maliciously, and against Truth, excepting what follows at the time and place under-written, I had the under-written Discourse with thee, or to the same effect, and no other, viz.

I *David Ramsey* being with thee *Donald Lord Rea*, in the Month of *May* or *June*, as it is in the said Bill mentioned, and in the Ship there also mentioned, being in or near the Port there mentioned, thou desiredst that I would tell thee, If the Marquess of *Hamilton* would come over? and I answered he would. And you asking me of what Religion the Lord Marquess was, I said, A good Protestant, and before it be long, he would let the World see his Design was for the Defence of his Religion, and the Glory of God. And then asking me whether he would come over with an Army? I said, Yes, with an Army of brave Men, and all Warlike Provision, that he cared not with whom he encountred. Which Passages, upon often and better recollecting of my memory and thoughts than heretofore, I do now remember. And you the said *Donald Lord Rea*, having then under your Command, two Regiments of Souldiers in Service of the King of *Swedland*, and then and there of thine own accord saying to me, Thou wouldst get leave of the said King to join your said two Regiments with the said Lord Marquess his Forces, and serve the said King in the Wars under the Lord Marquess, I kindly accepted that motion of yours, and desired to confirm it in you; and I told you, that

Alexander

Alexander Hamilton and *Sir James Hamilton* were to go for *England*; and you told me you had a promise of the Reversion of *Orkney* from the King your Master if the Marquess would mediate with your Master for it; and I and *Alexander Hamilton* did desire you to write a general Letter to the Marquess, with trust to the Bearer *Alexander Hamilton* concerning *Orkney*; and assured you of the said Marquess his Friendship, if you would continue constant in your Resolution, in joining your Regiments with the Lord Marquess, when he should come over, and you gave a Letter accordingly. Afterwards in *March* last, I being then at the *Hague* in Imploiment for providing Furniture for the said Marquess his Companies, which were to go over into the King of *Swedland*'s Service, came to you from the *Hague* to *Amsterdam*, being earnestly invited thereunto by Letters from you; where I staid with you eight days, and delivered to you a Letter from the Marquess only of Complement and Thanks for your Offer, to join your Regiments under the Marquess his Command. And I told you all went right with the Marquess, and that I heard he had gotten from his Majesty 10000 *l.* in *England*, and the Wine-Customs in *Scotland* for sixteen years, which he would sell; and all things for his coming over with his Forces went on without any demur or obstacle; and the only stay was, for want of Arms and Ammunition, especially Powder, and desired you to put in hard for that with the *Swedish* Ambassador, which you did after the Premises. And in *March* or *April* last, in *Delf* in the *Low-Countries*, you told me, you had a Letter from the King of *Sweden* to the King of *Britain*, to desire some Ships for the Marquess. And you said further, That the King of *Sweden* said, He had no Ships to spare of his own, but he would write to our King for some for him; and that he the said King of *Sweden* would allow 40000 *Rix Dollars* for the entertainment of the said Ships to be always in readiness upon the motions of his Army. You also asked me, if my Lord Marquess was to raise any Men in *England*? I answered, I heard he was to raise three Regiments in *England*, and three in *Scotland*. You asked me where these Forces should meet? I answered, On the Sea. You asked where they should Land? I answered, I was doubtful where, because the Rendezvous was to be appointed by the King of *Sweden*; you said further, That you was not a Souldier of Fortune, that you had Bread at home, and might live without hazarding your self in the Fortunes of War; yet that you would hazard your Life and Fortune with the Marquess. I answered, I knew no more of the Marquess his Designs, than I had then told you, but that I would write to the Marquess to commend to him your forward affection to his Service, or to that purpose. I told you, that since my being in *Holland*, I did perceive the *Hollanders* did conceive, that *England* had made a Peace with *Spain* very prejudicial to *Holland*; and that divers of them had said so in my hearing: which Passages concerning the said Peace, upon often and better recollection of my memory and thoughts than heretofore, I do now remember, and I also told you, That the lack of Powder was the greatest stay of the Marquess his coming over; and you desired me to speak my self to the *Swedish* Ambassador for the Powder, and to advertise you of his Answer, that you might assure the said Lord Marquess what he might expect; and I did send one of my Men to the *Brill*, called *John Thompson*, to shew you I was with the Ambassador, and hope to have what we spoke of.

But

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But whereas thou the said *Donald Lord Rea* in thy said pretended Accusation or Appeal dost affirm, that I said other words to thee, than such as are here set down in this my Defence; I the aforesaid *David Ramsey* say and affirm, That *thou liest falsely, and art a false Calumniator*, and oughtest to be punished with the punishment of a false Traitor; and I offer my self ready to prove and justify, by the help of God, this my Defence and Exception, by my Body upon thy Body, according to the Law and Custom of Arms in a Duel, to be performed in the presence of our Lord the King. And I humbly and instantly desire, that a Day and Place may be assigned for the said Duel, &c.

Then was read in Court the Petition of *David Ramsey* to the King, beseeching his Majesty to assign him the Person, whose Name was written in the Schedule annexed, to be of Counsel with him in this Cause, the Name written in the Schedule was Mr. Dr. *Eden*. The Witnesses in this Cause were commanded to make their personal appearance in the Court, and were there examined, and divers Letters written, as well from Marquess *Hamilton* as from *Ramsey*, to the Lord *Rea*, were then produced.

Mr. *Ramsey* had bin released from Imprisonment in the *Tower* upon Bail, and his promise to appear before the Earl *Marshal* of *England*, or such other Persons as his Majesty should appoint, at such Time and Place as should be assigned unto him, upon three days warning; in the mean time to keep the Peace, and to confine himself to *Richmond*, having the liberty of three miles walk, with this acknowledgment, That in case of absenting himself from such Appearance, or breaking the Peace, he will be accounted guilty of the Crime, for which he stood committed. And for the performance of this Engagement, the Earls of *Abercorne* and *Roxborough* entred into a Bond of *Four thousand* pounds to the King.

A while after *Ramsey* entred in the Court a Protestation of the Tenor following.

Ramsey's Pro-
testation.

Whereas in Obedience to his Majesty's Commands, and in conformity to this Honourable Court, I have heretofore, contrary to such Intentions as seemed to me most reasonable, procured some Personages to stand engaged for my personal appearance in this Court, concerning this pretended Cause; and have, in obedience and conformity as aforesaid, used the Counsel of Dr. *Eden*, assigned unto me for that purpose by his Majesty, as Defendant in the said Cause. And whereas at my first appearance, upon sight of my Lord *Rea's* Bill, I accepted of the Trial by Combat, and ever since avoided and waved all Courses usually proposed by Defendants to avoid the Combat, which at this present I am ready to entertain: And whereas since from the Premises, and the Lord *Rea's* pretences of proving new Matters, the final Decree in this Cause, to my great prejudice in my other occasions, hath bin from time to time put off, and nothing as I conceive, under favour of this Honourable Court, proved against me, either to convince me of any Matter objected against me, or to urge me by the Law of Arms to submit my self to Trial by Combat, if I had a desire to decline it. I do here again once more, and that most instantly, desire a certain Day and Place to be assigned and decreed for the Combat between the said Lord *Rea* and me, for the Trial of the Matter in issue between us in this Honourable Court;

Court; and I do with all humbleness desire of this Honourable Court, that after all these delays used on the Lord *Rea's* behalf, I may now betake my self to my said first Intentions; and therefore I do protest, that so much as in me lieth, I do now disengage, and do desire this Honourable Court for ever after this time, to hold for disengaged those honourable Personages that are bound for my personal appearance. And I do humbly desire to know what his Majesty's further pleasure is concerning me, since I came hither upon his Majesty's command by Letters, and am here ready to satisfy my Loyalty as his faithful Servant, with the hazard of my Life.

And so instantly desiring and urging to be released of his Obligation, and that his Sureties might be likewise released, he was remanded to the *Tower of London*, and his Sureties were released, and the Bonds were rendred to them.

At another sitting, when Dr. *Duke* moved divers things in behalf of the Lord *Rea*, declaring, That with due reverence he submitted to the Court in all things. The Earl *Marshal* made answer, that the Lord *Rea* had governed himself in the whole Process of the Cause with much Prudence and Moderation, and wished that *Ramsley* had used the like Moderation in his Defence. And he further said, That now it seems necessary to lay open the Series of the whole Business: and so continuing his Speech, he shewed that our Sovereign Lord the King, so soon as he had knowledge of the Crime objected, did use all diligence to find out the Truth, and called the Parties before him; and the Lord *Rea* constantly affirmed the Truth of these things, and offered to justify the same with the hazard of his Blood and Life. And Mr. *Ramsley* on the other part with the like constancy denied the Accusation, and said, he would prove it false against the Lord *Rea* by Duel, if it seemed good unto his Majesty. And that the King observing the confidence of the Parties, and the defect of other Proofs, and the Parties free choice of Duel, consulted about the way of a publick Duel by the Authority of this Court, and took care to be informed of the Proceedings and Customs thereof. That it was certain, that this Court was the only Publick Judicature, to which the Cognizance of Treasons committed beyond Sea appertained before the time of *Henry* the 8th; and that the Statute of 26th and 35th Years of that King, concerning another manner of proceeding therein, was not derogatory to the Authority of this Court, but only superadded another way of Trial. That all private Duels were accounted and are unlawful, but publick Duels decreed by the Authority of this Court, were always granted to be lawful in Cases of Treason, when for the safety of the King and State the Truth would not otherwise appear. That his Majesty therefore consented to the Requests of these Parties, that they should fight a Duel for the Discovery of the Truth in this behalf; and therefore he constituted and confirmed this Court under the Great Seal of *England*. That the Lord *Constable*, and he the Earl *Marshal*, according to the King's *Letters Patents*, together with those Noble Persons that were of Counsel with the Court, had heard with patience whatsoever was alledged on either side; and that there were three ways of determining things of this nature in this Court used by our Ancestors.

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First; To absolve the Accused; which in this Case, the Nature, Quality, and Circumstances of the Fact and Crime objected being considered, cannot be.

Secondly, To condemn the Accused when the Truth of the Crime objected evidently appeareth by Witnesses, or any other way; which in this Case hath not been, nor seemeth possible to be, when out of the Accusation it self, it appeareth that the Words were spoken secretly, and not before Witnesses.

Thirdly, By way of Publick Duel, to the decreeing whereof the Lord *Constable* and himself, with the assent of those Honourable Persons of Counsel with the Court, did intend to proceed.

Then the Lord *Constable* together with the Earl *Marshal* demanded of the Parties, Whether they had any thing more to speak or propound in this Cause? They severally answered they had nothing more. The forenamed Lords asked the Lord *Rea*, whether he would finally acquiesce in his forementioned Bill of *Appeal*? whereunto he answered he would therein acquiesce. Then they asked *Ramsley*, whether he would acquiesce in his answer to the Bill of *Appeal*? whereunto he also answered, that he would therein acquiesce. After this, the Register read in Court the Lord *Rea*'s Bill of *Appeal*, and *Ramsley*'s Defence in the presence of the parties. Presently the Lord *Rea* sealed his Bill with his Seal at Arms, and subscribed his Name with his own hand. After the same manner Mr. *Ramsley* sealed and subscribed his Answer.

Then the Lord *Constable* taking the *Appeal* in his hands, and folding it up, put it into the Glove which the Lord *Rea* had cast forth in the Court for a pawn in this behalf, and held the Bill and Glove in his right hand, and in his left hand the Answer and Glove or Pawn of *David Ramsley*, and then joyning the Bill and Answer, and the Gloves, and folding them together, he with the Earl *Marshal*, adjudged a Duel between the parties under this form of words.

In the name of God the Father the Son and the Holy-Ghost, the Holy and most Blessed Trinity, who is one, and the only God and Judge of Battels; We, as his Vicegerents under the most excellent Prince in Christ our Lord and King, by whom we are deputed to this, Do admit you the aforesaid Donald Lord *Rea*, the Party Challenging, and you the aforesaid *David Ramsley*, the Defendent, to a Duel, upon every Accusation contained in this Bill and the Answer to the same; and we Assign unto you the twelfth day of the Month of April next following, between Sun and Sun, in the fields called Tuttle Fields, in or near Westminster, in the presence of our Lord the King, to do and perform your parts to your utmost power respectively.

And we Will and Enjoyn you the aforesaid Lord *Rea* the Challenger, to be in the aforesaid Fields, and within the List there, between seven and nine of the Clock in the forenoon of the aforesaid day. And we enjoyn you the aforesaid *David Ramsley* the Defendent, to be in the Fields in the foresaid List between nine and eleven of the Clock in the forenoon of the said day, upon Peril attending you respectively in that behalf.

Which Decree and final Sentence pronounced, the Lord *Rea* craving pardon of the Court, spake to this Effect; First, he gave thanks to the Lord *Constable*, the Earl *Marshal*, and the rest of the Lords, that they had with so much Patience and Justice heard and examined

7 Caroli.

amined this Cause, and for the Justice therein exercised, especially for the Sentence already given. Then he protested before Almighty God and that Court, that he had revealed nothing against *David Ramsey*, or any other, for Malice, or Hatred, or hope of Reward, either Gain, or Honour, but only out of his Faithfulness to our Lord the King, and for the safety of his flourishing Kingdoms, knowing that nothing is more pernicious to Kingdoms and Commonwealths than intestine Wars. He professed that if he himself had not revealed the premisses, but some other acquainted with the Treason had first discovered it, he without all doubt had deserved the death of a Traytor. And whereas it might be said, that he by revealing it had hazarded his own Life. To this he answered, that he was unworthy of all Honour, yea of Life it self, that was not ready to lay down, much more to hazard his own Life for the Safety of King and Kingdom. And whereas he might seem in the process of this Cause to have declined a *Duel*; he desired to be understood that whatsoever was done in that behalf, he did in hope and expectation that the Treason which was communicated to many, might be some way brought to light. For he did neither distrust his own Cause, nor fear the Person of his Adversary, nor any other in so just a Cause, only in this he grieved, that an Adversary equal to him in Birth, Degree, and Nobility, was not offered. And whereas many wondered that he would hazard his Life for revealing words, whereof he was doubtful whether they would amount to Treason or not. He said, he knew much more concerning the Treason, than what was contained in this Bill, which by the interposing of Authority, was for just Causes yet to be suppressed.

As for the *Duel* now decreed, he professed that he embraced the Sentence with all chearfulness, and desired no further delay of the Combat, than that in the mean time he might provide himself with such necessaries for this *Duel* as became his Stock and Kindred, and the Combatant and Champion of so great a King. That he had no private hatred to the Person of *David Ramsey*, but was now to encounter him, being by the Court declared his publick Enemy. And so having prayed to God for his Majesty's safety, and happy Government, and imploring the favour of the Court, he made an end of speaking.

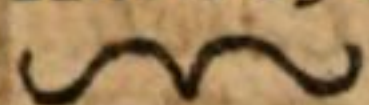
After this the Court assigned to both Parties a day, whereon to make such Propositions as they would think fit.

Then the Lord *Rea* desired, that the Crimes and Words by him objected in his Bill against *David Ramsey*, might be declared Treasonable, and that *Ramsey* were guilty of Treason, if he uttered those Words: which the Court with an unanimous Consent did declare so, and adjudge.

Ramsey moved that a shorter time, and some day within the 12th of *April* might be assigned for the *Duel*, saying that he would soon compel the Lord *Rea* to confess the falshood of the Crime objected, if he would meet him in place convenient.

The Lord *Marshal* answered, that the day was determined; and further intimated to both Parties that they were to be attached and kept in safe Custody, if they gave not sufficient caution for their appearing at the day and place appointed, and in the mean while for keeping the Peace. For the performance whereof on his part the Lord *Rea* produced Sureties, namely Sir *Peirce Crosby*, Sir *William Forbes*,

An. 1631.



Forbes, Sir *Walter Crosby*, Knights and Baronets, and *William Jones* Esq; who bound themselves to the King Body for Body.

Then Mr. *Ramsay* being asked, whether he would bring forth Sureties? Answered, that he was ready in the Word and Honour of a Gentleman, to oblige himself to whatsoever in that regard should be by the Court enjoined, but as for Sureties that he had none, or at least desired none; That it was troublesome for him to engage Noble Persons, who had in other respects interposed in this behalf. Whereupon the Lord *Rea's* Advocate desired that *Ramsay* be committed to the *Tower* till the day appointed for the Combat.

Then *Robert* Earl of *Roxborough* publicly offered, and said that himself and *James* Earl of *Abercorn* were ready to put in Caution for *Ramsay*, if the Court would admit them; and *Walter* Earl of *Balclough* made the same offer, and the Court admitted them, (although the Lord *Rea's* Advocate alledged many things to the contrary) and they became bound Body for Body. Whereupon *Ramsay* was released from his Imprisonment in the *Tower*.

The Lord *Constable* and Earl *Marshal* admonished both Parties to keep within the bounds assigned them; to wit, That the Lord *Rea* should not go Westward beyond *Charing-Cross*, nor Mr. *Ramsay* beyond *Whitehall* Eastward. These bounds they might not pass without the special Licence of the Court, or some just and reasonable Cause.

The Weapons which the Court assigned to the Combatants, were a *Spear*, a long *Sword*, a short *Sword*, and a *Dagger*; each of them with a point.

Then the Lord *Rea* presented these Protestations to the Court.

Lord *Rea's*
Protestation or
Petition to the
Lords *Constable*
and *Marshal*.

First, He did humbly desire of the Right Honourable Judges the Lord *Constable* and Earl *Marshal*, that his Arms and Weapons might be assigned him for to aid himself therewith against his Adversary in the day and place to him assigned: And also in any other day and place, if any should be assigned him; and that he might have no Weapon of advantage, and that he might be received into the Lifts or Field with those Arms as shall be assigned him, and armed in what sort he should please; and that he might have with him all other things needful and accustomed by right to aid himself at need against his Adversary although they be not expressly written; and desired that his Adversary, should have no other Weapon, nor of other size than those that he the said Lord *Rea* should have: And if the said Adversary should bring into the Lift any other Weapons, or of other size than the Court should assign him, that such Weapon should be taken from him, and that he be allowed no other.

The Order of
the Court.

It seemed reasonable to the Court, that he should be received into the Lifts armed as is fit: And as for the Weapons, was to have a *Spear*, a long *Sword*, a short *Sword* and a *Dagger*, each with a point, as above said, and for the rest the Court would do reason, according to the Custom and Law of Arms.

Item, The said *Challenger* did pray that his Counsel might be received into the Lifts or Field with him, for to counsel him what should be needful, and that he might have a *Chirurgion* with his Ointments and Instruments to serve and aid him when need required, and he did pray, that his Counsel might remain with him, until the words *Lesser Armes* were cried.

The

The Court willeth, That he shall have sufficient Counsel, a Chirurgion with his Ointments and Instruments within the said Lifts, as appertaineth, until the words *Lesser Les Armes* be pronounced.

Item; He did pray, That he might have within the said Lifts or Fields, a Seat or Pavilion, or other Coverture to rest himself, that he might have Bread, Wine, or other Drink; Iron-Nails, Hammer, File, Scissars, Bodkin, Needle and Thread, Armorer and Tailor with their Instruments, and other Necessaries to aid and serve him in and about his Armour, Weapons, Apparel and Furniture, as need required.

The Court willed, That he have a Seat and such Coverture as he shall please, without fixing any thing in the Ground; Bread, Wine, and other Necessaries, in such cases requisite, till the words *Lesser Les Armes* were pronounced.

Item; He did pray, that he might have liberty to make trial of his Arms and Weapons within the Field, to put them off, and to put them on, and change them at his pleasure; to nail, fasten, or loose his Arms and Apparel, and other things needful; to Eat and Drink, and to do all other his Necessities.

The Court granted until the words *Lesser Les Armes* were pronounced.

Item; He did pray, That after he did once come into the Fields and Lifts, that his Adversary should not be permitted to make him stay and attend too long, under pain of being Convict.

To this the Court returned answer, *The Court will do you reason.*

Item; He did pray, That if it should happen, either by the delay of his Adversary, or any other Impediment, that he should not be able to prove his intent upon his Adversary in the day assigned him, between Sun and Sun, that then he might have further time and day allowed and assigned him for the proof thereof on his said Adversary.

To this the Court answered, *The Court in this Case will do as anciently hath been used according to the Custom and Law at Arms.*

Item; He did pray, That the Field and Lifts might be well and safely guarded for him until the end of the Battel, and as well in the Night as in the Day, until that with the Aid of God he should make good, and prove his intent upon his Adversary.

It was answered, *The Court will do herein as is right.*

Item; He did humbly pray, That if God should so dispose, as that he died in the prosecution of this his rightful Appeal in this behalf, that then his Heirs, without any impeachment or hindrance, might take his Body and give it Christian Burial, in such place as he shall appoint by his last Will and Testament.

It was answered, *This must be at the King's pleasure.*

Item; He did pray, That notwithstanding that the Custom of Arms will, that he should bear into the Field certain things necessary for him, that these, or some of these things, may be brought by others in ease of him, and that they might be saved and carried back for him, if in case God should please to give him the Victory, as he may of his special Goodness and Mercy.

Hereupon this Order was made by the Court;

The Court willeth that you do herein according to the Custom of Arms used in like Cases before this time.

Order of Court.

Item;

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Item; He did desire, That the same day when with God's help he did intend to prove his Intent upon his Adversary, he might have all other things necessary for him, and accustomed by Right and Law of Arms, although they were not expressed in these his Protestations.

To this it was answered, *The Court herein will do that which shall seem reasonable unto them.*

Item; He did pray, That these his Protestations, nor the Copy of them, might be delivered nor shewed to his Adversary, nor to any of his Counsel, or other Person, whereby his said Adversary might have knowledge thereof: Further praying, and desiring that these his Protestations and Demands might be graciously granted unto him, by those Honourable Lords, as the Right and Law of Arms did require.

It was answered, *The Court would herein do that which should be reason.*

Item; He did pray, That it might be lawful for him to go or ride into *Tuttle-Fields*, in or near *Westminster*, at his pleasure, and so often as he should think fit, to view the Ground which should be assigned him for the proving of his Intent, and for such other ends as should be most for his advantage for the proving of his intent upon his Adversary.

Order and
Answer.

To this the Court answered, *It seemeth reasonable unto the Court, that at convenient times, which should be signified and expressed under the hands of the Lord Constable and Earl Marshal, what should be lawful for him to do as was desired.*

Item; He did humbly pray, That since by the Law and Custom of Arms, and of the Honourable Court, the Defendent is never to be allowed Counsel, nor to have any Assistants, nor to have any Petitions of Favour granted, except in due time he shall have desired, or shall have protested that he would desire them. And that in this Case his Adversary publicly hath protested against the having of Counsel, and all other Aids and Assistants in this Court, as by the Acts of the Court appeareth, he humbly prayeth that he might not have any Counsel, nor Aids, nor Assistants assigned unto him in this behalf; and that no Petitions or Protestations (if he shall make any) might be granted unto him; and in this he humbly desired the Justice of that Honourable Court.

Answer was made, *The Court would do herein upon Consideration, as to the Custom and Law of Arms appertained.*

The Dimensions of the Weapons were as followeth.

A Long Sword, four foot and a half in length, Hilt and all; in breadth two inches.

Short Sword, a yard and four inches in length, Hilt and all; in breadth two inches.

Pike, fifteen foot in length, head and all.

Dagger, nineteen inches in length, Hilt and all; in breadth an inch.

The Weapons were not to exceed this Proportion, but the Parties might abate of this length and breadth if they thought fit.

These Protestations and Petitions were accepted and registred.

Afterwards Mr. *Ramsley* presented a Petition to the Lord High Constable, and to the Earl Marshal.

Ramsley's

Ramsley's Petition.

To the Right Honourable the Lord High Constable, and the Lord Marshal of England ;

The humble Petition of Mr. David Ramsley, Gent. of his Majesty's Privy-Chamber in Ordinary.

Shewing,

That in regard there can be no President shewed forth by Authentical Record, whereby the choice of Arms was ever heretofore permitted or granted to the Challenger, or refused to the Defender, suitable to the Custom and Law of all Christian Nations ; as likewise in regard the Challenger himself, as I suppose being ashamed of his Protestations and Demand for Defensive Armour, has in good Company denied the same, and ascribed it to your Lordships imposing. He therefore according to the said Law of Nations, and Custom of the Kingdom, doth humbly intreat that there be no other Arms allowed for the Trial, than such as he hath bin already Suitor for, (*viz.*) *Rapier* and *Dagger*, as being in the number of such as your Lordships were pleased to nominate, which are the most common in all Gentlemen's Opinions, and that are carried by all and every Man that is acquainted with the Management of them.

Lastly, Intreating, That if there chanced to be found any want or mistake in the formality of this, that your Lordships will be pleased to pass over the same, and attribute it to the absence of the Lawyer allowed by your Lordships, having now no other Counsel than the Justice and Equity of his Demand. And as in Duty bound, he shall never be wanting, either in Action or Speech, to shew his gratitude for these your Lordships so just and noble Favours.

To the foregoing Petition, this following Answer was returned

Decimo Aprilis 1632.

The first part concerning my Lord *Rea*, the Lords having called Sir *William Balfour*, (the Witness vouched by Mr. *Ramsley*) and heard him, but could not prove what was alledged.

The second part, concerning the Election of Arms, the Lords thought it was not fit to be granted, the Custom of this Court being otherwise, and other Arms being already assigned by the Court.

On the 10th of *April* *Rea* and *Ramsley* appeared again before the Court, sitting in the *Council Chamber* at *Whitehall* ; at which time the Lord High Constable and the Earl Marshal signified to the Parties, That it was the King's Pleasure, for certain just and urgent Causes, to prorogue the day of Combat, from the 18th of *April*, to the 17th of *May* ; and they prorogued the same accordingly ; and required *Rea* and *Ramsley* to appear in *Tuttle-fields*, upon the day last assigned, at the hours appointed in the former day : for the performance whereof, both the Challenger and the Defender produced their several Sureties, and the Cautions and Sureties for the former day were by the Court remitted.

The

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The Lord *Rea* desired to know the pleasure of the Court, whether he might use Defensive Arms? and in case he might, whether according to his own discretion, or as the Court shall regulate?

The Judges of the Court answered, That the Offensive Weapons and their Dimensions were assigned by the Court already; but both Parties might use Defensive Weapons at their own discretion.

May the 12th the Court reassembled, and the Parties were called, and answered to their Names.

Then the *Constable*, together with the *Marshal*, declared, That upon hearing and examination of this Cause, they had not found *David Ramsay* guilty of *Treason*, nor was the *Treason* intimated made appear by the Lord *Rea*, though he had so long time attempted it; yet they found that he had seditiously committed many contempts against his Majesty, the reformation whereof his Majesty reserved to himself; and therefore the Court Decreed, That they (the said Lord *Rea* and *David Ramsay*) should both be committed to the *Tower of London*, till by Sureties to be approved by his Majesty, they gave in sufficient Caution, that neither in their own Person, nor by any in their Families, nor by their procurement or assent, they would attempt any thing one against the other, and that so long, till it seemed good to his Majesty to set them at liberty; and so they were both arrested by order of the Lord *Constable* and *Marshal*, and by *Serjeants at Arms* delivered over to Sir *William Balfour*, Lieutenant of the *Tower*.

Then a Letter was brought from his Majesty by *Richard St. George*, King of Arms, to the Lord *Constable* and *Marshal*, by which his Majesty revoked his *Letters Patents*, given to the said Lords for the Trial of this Cause, not willing to have it decided by Duel. And so there was nothing more done in it.

But now let us return to *Marquess Hamilton*, where we left him in his Quarters in *Germany*, who lost no time after the Battel at *Lipsick*, but went himself to the King at *Worben*, passage being then more open. The King excused his not sending the Forces he had promised, for that he was resolved speedily to give *Tilly* Battel, and so could not weaken his Army, and appointed the *Marquess* to remove from those Villages near *Stetin*; and accordingly on the 20th of *September*, the Army went up the *Oder* from *Stetin*, some pieces of Ordnance they carried with them by Land, and the rest by Water, and according to order were quartered about *Custrein*, *Frankfort* upon the *Oder*, *Landf-bergen*, *Crosar*, and places thereabouts; where a third part of his Army languished and died of the Plague, and other Sicknesses.

The *Marquess* had not bin long at his Quarters at *Custrein*, when he received Orders to besiege *Magdenburgh*, wherein were 3000 Men: The *Marquess's* Army being then very feeble by sickness, the King of *Sweden* sent *Bannier* with 3000 Foot and 1000 Horse to join with him, and to block up and besiege *Magdenburgh*; which they so streightned, as on *Christmass Eve* they came to a Parley. But on the second day of their Treaty, one of the Count *Mansfields*, their Governor, had notice that *Papenheim* was coming with Relief; whereupon the Treaty broke up, and *Bannier* would have bin retiring: But the *Marquess* pressing his stay, he produced his Orders to command all the *Dutch* and *Swedish* Forces, and not to hazard an Engagement; whereas that

that gallant Commander, Sir *Jacob Ashly*, (who was then with the Marquess) viewing the Pass designed for the Marquess's Retreat, in case *Papenheim* did advance, assured the Marquess and *Bannier*, they might in less than an hours time march away in spite of *Papenheim's* Army, and therefore not yet to remove, was his advice: whereupon the Marquess proposed to *Bannier* to fight *Papenheim*; but *Bannier* not willing to hazard his Men, marched away; so *Papenheim* afterwards advancing, got into the Town, and carried away the Garrison of Soldiers, and some Ordnance, with Ammunition, and so quitted *Magdenburgh*, yet left some Cannon behind him, (having not Draught-Horses to carry the same away, nor intending to make that Place a Garrison any longer); There the Marquess did stay till the beginning of *February 1631, English Style*; and the King ordered him to march to *Halberstadt* to quarter his Army thereabouts.

7 Caroli.

As to the Negotiations of Sir *Henry Vane*, his Majesty's Ambassador to the King of *Swedeland* now in *Germany*, take this brief Account.

Sir *Henry Vane* had in Commission first to go to the King of *Denmark* to remove all suspicion out of his mind, and firmly to reconcile him to the King of *Sweden*.

The Ambassador's Instructions.

Secondly, To move the Princes and Republick of *Germany* to take part with the *Swede*.

Thirdly, To make strict Peace between the Crowns of *Poland* and *Swedeland*.

And lastly; To enter into a League with the King of *Sweden* upon Emergent Occasions.

The Ambassador after his arrival at *Gluckstadt* came to *Erford*, from whom the Marquess received this ensuing Letter.

My Lord,

THE first of mine which this Bearer will give your Lordship, will tell you the extreme regret I have had since my coming into these Parts, that I could not have the honour to hear from your Lordship, yea, scarce hear of you.

The Ambassador writes to Hamilton.

I received your Lordship's of the 20th, delivered me this evening by one I sent to Liplick, my self being hindred from going that way, in regard the Enemy lay between Brunswick and Liplick, so as I could not pass without danger, which causeth me to take the way of Erford. To morrow I set forward towards Wirtsbourgh, which his Majesty of Swedeland hath assigned me for my Audience; which as soon as I have had, I shall dispatch an Express to your Lordship, and be glad to receive your Lordship's particular Commands, of which I shall be as vigilant and careful as if they concerned my self. I hope yet some one of your Lordship's will overtake me before I shall see the King; for it will be Thursday before I shall arrive at his Court, and I presume it will be four or five days before he will give me Audience.

Erford, Octob. 27. 1631.

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The Ambassa-
dor excuses his
not waiting on
the King of
Denmark.

Admitted to
have Audience
in January.

The Ambassador, after his arrival, understood that the Duke of *Saxony* being become desperate, by reason of *Tilly's* Insolency in his Country, had joined himself with the *Swedes*, and that when their Armies were united, had obtained a glorious Victory upon the Emperor's Forces near *Lipsick*; and that the King of *Sweden* making use of that Victory, was gone forward as far as *Franconia*: judging therefore that it concerned him to make haste, he excused himself by a Letter to the King of *Denmark*, and went forthwith to *Wirtzburg*, where he continued for some time. At length he was admitted to Audience, first at *Franckfort*, then afterwards at *Mentz*, but it was the latter end of *January* before he had Audience.

We give you here the substance of what passed between him and the King of *Sweden* on the 29th of *January* 1631, at *Franckfort* on the *Main*, as followeth.

THE Ambassador at his first Audience with the King of *Sweden*, on *January* the 29th, according to our Stile, told the King, That he had come sooner, but that his Majesty's Command staid him at *Mentz*. The King bid the Ambassador welcome, and told him, he heard the King of *Bohemia* was upon his way to come up to him; and asked him, when he thought he should be here? To which the Ambassador answered, he thought to morrow. At which the King started, and said, it could not be: the Ambassador replied, he thought yes, for he had received such advertisement from the States Agent at *Collen*; and said further, the King of *Bohemia* was come in conformity to his Majesty's desire unto him; and that he hoped his Majesty would take his Cause actually in hand, according to his public *Manifesto*, whereby he would acquire to himself much Honour, because none was so much wronged and oppressed as he. The King replied, he would first make an Alliance with the King of *Bohemia*, and would be also glad that the Alliance between himself and the King of *Great Britain* should proceed; and asked the Ambassador, whether he had plenary Power? and whether the King of *Great Britain* would make the Confederation personal with him, or not? and whether he would be content to give Money and not Men? To the first he answered he had Plenary Power; and that for the personal Confederation between the two Crowns, his Master was content to accept it; and for Money in lieu of sending Men, he thought an Expedient might also be found for that, providing his Majesty would undertake the Restitution of the King of *Bohemia* unto his Estates and Dignities, and not to lay down his Arms until both were effected. All but this Condition he liked well; but to that he answered, he could not do that without having War with *France* and *Bavaria*; and that in the late Treaty between *France* and the *Catholick League* concerning the Neutrality, there was an Article; but as for that of *Bavaria*, it should be remitted to a future Treaty between the Kings of *Britain* and *France*; and for what he held of the *Spaniards*, he was willing to return. The Ambassador answered, That that Article, and all others in that Treaty, was as much to the prejudice of the King of *Bohemia* as could be, and consequently to his Master's Ends; and he wished in the end it might not prove disadvantageous to the prosperity of his Affairs, by being too long amused, which could not be but
advanta-

‘advantagious to his Enemies, and of dangerous consequence to him-
 ‘self and the Cause; that for his part he did not think it counsellable for
 ‘his Master to make an Alliance with his Majesty of *Sweden*, upon the
 ‘hopes of a future and contingent Treaty between *Britain*, *France*,
 ‘and *Bavaria*: But if his Majesty would oblige himself to perform the
 ‘Conditions he proposed, he the Ambassador was ready to begin the
 ‘Treaty to morrow. And the King replied that he could not stipulate
 ‘to make War upon *Bavaria* at this present, but it might be hereafter,
 ‘and if the King of *Great Britain* would follow his Counsel, he thought
 ‘it might either be done by War or Treaty, and said, if we had con-
 ‘cluded before the arrival of the *French*, he could then have undertaken
 ‘War upon *Bavaria*, but it was not for him to undertake against the
 ‘House of *Austria*, *France* and the Leagues, if he could by means of
 ‘the Neutrality lay *France* and the Catholick League by.

‘The Ambassador answered, For our coming too late, there was no
 ‘fault to be justly imputed to us; for had his Majesty of *Sweden* de-
 ‘manded reasonable Conditions, the Alliance had been concluded: but
 ‘Leagues and Business of so great Importance, could not but have slow
 ‘motions; yet he besought his Majesty of *Swedland* to give him leave
 ‘to commemorate the proceedings of his Master towards him since his
 ‘Majesty’s coming into *Germany*, viz. that he had permitted him to make
 ‘as many Levies of his Subjects as he had desired; That he had since
 ‘sent the Marquess of *Hamilton* to him with a Royal Assistance, and so
 ‘opportunely, as it could not be denied but that the Marquess landed
 ‘his Army at a seasonable time, to the amusement of the Emperor,
 ‘and the encouragement of the Confederate Protestant Princes, as
 ‘appeared by the effects that followed thereupon, by the speedy uni-
 ‘ting of their Army under his Command. And that though his
 ‘*Swedish* Majesty, next under God, was the only immediate Instrument
 ‘to whom the Glory of this great Revolution was to be attributed,
 ‘yet it could not be denied but that the Subjects of *Great Britain* had
 ‘done him great and remarkable Service, both in these and his former
 ‘Wars, and that these were neither to be concealed nor forgotten,
 ‘nor the real Assistance now sent unto him.

His Majesty of *Sweden* acknowledged, ‘that the King of *Great Bri-
 ‘tain* had proceeded with him as a Friend; that he was a wise and ver-
 ‘tuous Prince, and that none could wish more prosperity to his Per-
 ‘son and Affairs than he did, and that he would do his best to assist him
 ‘in the business of the *Palatinate*: but he would then have him fol-
 ‘low his advice; That he had too long depended upon the *Spanish*
 ‘*Treaty*, which was a fault, and had prejudiced us much; that nothing
 ‘was to be expected from them but *Parols*. The Ambassador replied,
 ‘if that were a fault, it behoved him to be wary in his Negotiation,
 ‘not to make an Alliance that might be disadvantageous to his Master,
 ‘either in Honour or Judgment; That whatsoever should be the
 ‘event, he doubted not but that God would bless both his Counsels
 ‘and Actions. His Majesty of *Sweden* replied, that for the present he
 ‘could not stipulate to make War with *Bavaria*, though he intended
 ‘not to let him escape, for that it could not be but of great advantage,
 ‘if he could secure the *Catholicks*, which he was in a fair way to ef-
 ‘fect; for, according to his Articles delivered unto *Charnassay*, the
 ‘Electors of *Triers* and *Cologne* had accepted of the Neutrality. The
 ‘Ambassador asked, whether his Majesty had received any Act of their
 ‘own?

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own? he said, No, But the Marquess of *Pressay* had assured him thereof; that he had not yet heard of *Bavaria*, neither could he yet say any thing thereunto, until either *Charnassay* or *Horn*, whom he had sent into *France*, were returned.

His Majesty of *Sweden* then said, he would make him two Propositions, which were, He would either oblige himself to restore the King of *Bohemia* what the *Spaniard* held, and treat with *France* and *Bavaria* for the restitution of what he possesses; which if he would not restore, He would then undertake a War with him, so the King would enter into an Alliance with him against the *Spaniards*, if he should attack him in any of his Dominions. He answered, that was a point of so great Weight, as he durst not take upon to make any present answer, but thought that his next from *England* would give some light.

The result of all was, that upon the King of *Bohemia's* arrival, it was resolved that the Chancellor of the *Swedes* and himself should enter into Treaty.

In this Audience he spake of 12000 Men to be allowed by the King of *Great Britain*, and 25000 *l.* a month, which he demanded for the maintenance of them, but he insisted not thereupon, and therefore he held not fit to mention it in this Discourse, but by way of Memorial.

He insisted also upon the establishing of the *Lutheran* Religion in the *Pallatinate*, and the King of *Bohemia's* Countries.

The Ambassador transmitted to Mr. Secretary *Cook* the passages at this Audience at *Franckfort*, to be imparted to his Master the King of *Great Britain*.

Magdenburgh being quit by *Papenheim*, and Marquess *Hamilton* Commanded by the King of *Sweden* to remove thence, the King of *Swedland* put a strong Garrison into the same, under the command of the Lord *Falconberg* of 4000 Men, and the Town raised 2000. Now seeing we are upon this great (but shortly after miserable) Town, have a little patience to read what befel it by the cruelty of *Tilly*, in the beginning of this year.

In the beginning of *April* 1631 *English* stile, Gen. *Tilly* now discovers himself to undertake what *Papenheim* had been about, viz. the Conquest of the Town and Archbishoprick of *Magdenburgh*. First, take a word as to the situation thereof: The Country of *Magdenburgh* is situated upon the West of *Brandenburgh*, from which the River *Elb* parts it; upon the South it touches upon *Saxony*, upon the West joining with *Brunswick* and *Halberstadt*; and upon the North of it is the *Elb* again, with the two Dutchies of *Lunenburg* and *Lawenburgh*; the Country hath the name from the chief City *Magdenburgh*, which is one of the antient *Hans-Towns* of the Empire, and that honoured with an Archbishop's See, and he the Primate of all *Germany*.

The People be *Lutherans* of the *Augustan* Confession, the Archbishoprick in the hands of a Lay-Man, *Christian William*, a Prince of the Electoral House of *Brandenburgh*, his Title is Administrator of the Bishopricks of *Magdenburgh* and *Hall*, and Primate of *Germany*. This bred the Quarrel, because he not giving way to Reformation of the Religion, (that is, the Administrator being against the bringing in of Popery again) and the restoring of the Church Lands to the Catholics, where-

whereupon it being against Articles of Agreement, was prescribed and bandied by the Emperor, and some Forces sent into his Country, actually to seize upon the same. His Subjects, notwithstanding they were also far out with the Emperor (as having consented with other Hans-Towns, not to suffer any Imperial Soldiers to be quartered or billited upon them, and had raised some 2000 Souldiers for their own Guards) yet being now terrified by the Emperor, durst not assist their Prince, until at last they were encouraged by the King of Sweden, who promised to stick close by him: Whereupon, about the end of July 1630, the Administrator sets forth his Declaration, protesting against the wrong done him by the Emperor, and putting himself under the Protection of the King of Sweden.

With this Prince had *Francis Charles*, Duke of *Saxon-Lawenburgh*, now conjoined himself.

And about the end of November 1630, the King of Sweden sends a Noble Gentleman, the Lord *Faulkenberg*, Lord Marshal and Lord Chamberlain of his Majesty's Household, with 4000 Men to be put in Garrison there, the Town having also raised 2000 Men for their Defence.

Upon the 12th of April, *Tilly* first presents himself in full Battalia within a Mile of the City: at which time believed it was that he would at least have fallen upon the great Star-Sconce, or *Toll-House* by the old *Flue*; but that day attempted he no more, than to beat some Guards out of their Redoubts into the City.

The 13th he lays his Seige; Himself, *Panpenheim*, *Savelli*, and *Mansfield*, round begirting the City. This done, twelve pieces of Cannon are planted against the Bridge over the *Elb*; upon which he made 568 Shot that same day: his intent being to cut that passage off, that the Town by it might send no Succour to the foresaid Sconce or *Toll-House*, but the General *Faulkenberg* conveniently planted some Pieces upon the *Toll-House*, which at last dismounted the Enemies Cannon. This not succeeding, *Tilly* falls Pell-Mell at once upon both these places, giving eight several Assaults unto them: but the Lord *Faulkenberg* with four whole Cannon double charged with Stones, old Iron, &c. about 12 a Clock at night made them to give over: some Prisoners the next day which were taken, confess there were 2000 Men that day slain of the Assailants. This *Toll-House* was a notable piece of Fortification, built on the other side of the *Elb*. To this *Tilly* now turns all his Battery; here falls he to mining, and all to no purpose.

On the 15th both by Land and Water he lays at it: but three hundred Musquetiers being by him sent in Boats, to assail it on the Water side, were by those of the Fort driven ashore, and drowned, or slain by the Citizens; 200 also at the same time lost their lives on the Land side.

Now was News brought into *Tilly's* Camp of the King of Sweden being upon his March, for the relieving of the Besieged. A Council of War thereupon being called, some Troops are sent towards *Wittenbergh*, and the *Dessanbridg*, there to stave off the Kings Forces; the news of his coming again slackning, April 21. to work *Tilly* falls again: and giving on upon the *Toll-House*, that notable Piece is forsaken by the *Magdenburghers*, who at their Retreat offering to fire it, the place was Rescued by the *Imperialists*. Upon this were all the Forts on that side of the *Elb*, either taken, or given over, the Bridge also by

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by *Tilly* burnt, and Approaches made unto the City, which was from thence immediately Battered. Now were the Besieged forced to burn their own new Town, where 2000 *Imperialists* immediately lodging themselves, fell to mining, and shooting Granadoes into the City.

The 29th, by a Sally out upon these in the new Town, are about a hundred slain; the Mines do no hurt, until one *Farniback*, a notable Engineer, takes them in hand, who saps himself under the Town-Ditches to the very hard Walls, which he much shakes by springing the Mine: in reward of which Service and some others, the Emperor makes him a Colonel, granting him a Commission to raise two new Regiments.

May the 2^d, the *Imperialists* in the new City having suddenly in the night time cast up a Battery, shrewdly punish the Besieged.

May 7th, General *Tilly* comes himself into the New-Town, together with *Papenheim*, then General of the Ordnance, and the Count of *Scomberg*, Serjeant Major General, and a great shew of Ladders is made, as if there were a purpose of a general *Scalado*. *Tilly's* hope was, that the Town would presently parly upon sight of these Preparations; but they taking the Alarum at it, instantly man all their Bulwarks.

The 8th day is spent in Shooting at a certain high Tower, from which the Town Cannon did much plague the Besiegers. This day *Tilly* sends a Trumpeter to Summon the Town; they send another to him, signifying their willingness to yield, might but their Administrator still enjoy his Bishoprick, and the Town their Privileges. This not consented unto;

The 9th day, *Papenheim* attempting to scale the Walls, is by a Sally beaten off: in which some of the Enemies Mines being discovered, are by Countermines in the Town defeated.

That day another Trumpeter is sent into the Town; towards evening there was much bustling observed, and carriages to and again in the Enemies Leaguer: Yea, they were perceived to rise with their whole Army, (as the Town thought) and to March to *Ortersleben*, half a mile from them. All that night was the Lord *Faulkenberg* upon the Walls: who perceiving in the morning no danger of assault, calls the City together into the State-House to give answer to the Enemies Trumpet; yea so secure they were, that the over-watcht Souldiers are suffered to go from their Courts of Guard, to take some sleep: and the Townsmen were gone to Church to give God thanks for their deliverance from the Siege. Thus the Walls being found empty, about seven on the Tuesday morning, May the 10th, *Papenheim* having giving the Word *Jesu Maria* to his Souldiers, and a white string about their Arms; makes towards the *Heydecker-Port*; where having thrown Turfs and Faggots into the Ditch to fill it up to the middle, the *Imperialists* run with Scaling Ladders upon their backs, the Walls are in a trice mounted, the Town entred, and the Souldiers fall to killing. *Faulkenberg* now flying in upon them, beats them back to the very Walls again: but a Port being by this time opened, and the Enemies Horse let in, the Valiant *Faulkenberg* is slain with a Shot, the Administrator hurt, both in the Thigh and Head, and so taken. Whilst all thus goes to wrack, a mighty Fire breaks out (how none knows) and it being a great windy day, all was on the sudden become one great Flame, the whole Town was within twelve hourspace utterly

terly turned to Ashes, excepting 139 Houses, six goodly Churches are burnt; the Cathedral, together with St. Mary's Church and Cloister were by the Monks and Soldiers diligence preserved. Twenty thousand People at least were here killed, burned, and smothered, whereof 6000 drowned in the *Elb.* *Tilly's Walloons* would give quarter to few: and the *Crabatts* never use to give, or beg any.

May the 12th came *Tilly* into the Town; and finding some hundreds of Women and Children in the Church, he gave them their Lives, and some Bread to maintain them; next day he forbids pillaging.

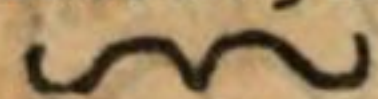
Upon Sunday, May 15. because he would have this fair Cathedral, now stained in Blood, made glorious, causes it to be cleansed, and new consecrated.

7 Caroli.

Whereas it was commanded, to the Sheriff of the County of York, by Writ under the Seal of his Majesty's Court of Exchequer, dated the 16th day of May, in the 7th Year of his Majesty's Reign that now is, That he should distrain *James Maleverer* Esq; to appear before the Barons of his Majesty's said Court of Exchequer, in the Octaves of the Holy Trinity then next following, to make Fine to the King for his Trespas and Contempt in not coming to the presence of the King, before the One and thirtieth day of January, in the first Year of his said Majesty's Reign, to take upon him the Order of Knighthood, according to the form of a Proclamation in that behalf formerly made; at which day of the said Octaves of the Holy Trinity, the said *Maleverer* did appear, and pleaded to the said Writs, That although his said Majesty the said one and thirtieth day of January, and for three days next before the said one and thirtieth day of January, was resident and remaining at his Palace at *Whitehall* in the County of *Middlesex*; and that the said *James Maleverer*, the said one and thirtieth day of January, and three days next before the said one and thirtieth day of January, was resident and remaining at *Arnclyffe*, in the said County of *York*, which is distant from the said Palace of *Whitehall*, the space of one hundred and fourscore miles: and that the said *James Maleverer*, the said one and thirtieth day of January aforesaid, or at any time before, had no Lands or Rents in his own hands, or in the hands of Feoffees to his use, out of the said County of *York*; and that that part of the said County of *York* which is nearest to the said Palace of *Whitehall*, is distant from the said Palace of *Whitehall* the space of one hundred and thirty miles; and that no Proclamation, by virtue of any Writ of Proclamation, for the appearance of any Persons whatsoever, to take the said Order of Knighthood, was made in any part of the said County of *York*, before the thirtieth day of January, in the said first Year of his Majesty's Reign; by reason whereof the said *James Maleverer* could not personally come to the presence of his said Majesty, to take the said Order of Knighthood before the said one and thirtieth day of January, in the said first year of his Majesty's said Reign; yet the said *James Maleverer* for his Fine in the Premises, did humbly submit himself to the said Court, and demanded to be discharged of the said Issues returned and imposed upon him by reason of the Premises. Yet notwithstanding the said Plea and Submission of the said *James Maleverer*; and after the same was made as aforesaid, and entred upon Record in his Majesty's said Court of Exchequer; and the said Court moved for stay

James Maleverer proceeded against in the Exchequer, concerning the Knighthood business.

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stay of the said Process, and discharge of the Issues. Sir *H. D.* being then Lord Chief Baron of the said Court of *Exchequer*, contrary to his Oath, and contrary to the Laws of this Realm, and to the great impoverishing of the said *James Maleverer*, did (together with the rest of the then Barons of the said Court) refuse to impose any Fine whatsoever upon the said *James Maleverer*, and told him, That the said Court had no power to fine him, and that he must compound with certain Commissioners for that purpose appointed. And did further order and direct several other Writs of *Distringas* to issue forth out of his said Majesty's Court of *Exchequer*, under the Seal of the said Court, directed to the several high Sheriffs of the said County of *York*, whereby the said Sheriffs were commanded further to distrain the said *James Maleverer* to appear, as aforesaid; upon which said Writs of *Distringas*, several great and excessive Issues were returned upon the Lands of the said *James Maleverer*, amounting to the sum of two thousand pounds, or thereabouts; a great part whereof the said *James Maleverer* was enforced to pay; and in like manner the said Sir *H. D.* (together with the rest of the then Barons of the said Court of *Exchequer*) did order and direct such and the like unjust and undue Proceedings; and the said Proceedings were had and made accordingly against *Thomas Moyser Esq;* and against several other Persons his Majesty's Subjects in several parts of this Realm, to the utter undoing of many of them.

Jan. 20.
Sope-makers
incorporated.

In order to increase the Crown Revenue by the way of Grants, by Letters Patents under the Great Seal of *England*, the King creates a New Corporation within the City of *Westminster*, by the Name of the *Society of Sope-makers*, made to these Persons following; Sir *Henry Compton* Knight of the *Bath*, *Henry Gilford*, *Nicholas Fortescue*, *Basil Brook*, *Edward Stradling*, *Richard Weston*, *William Ford*, Sir *James Banks*, Knight; *George Gage*, *Francis Townly*, *Beverly Bretton*, *Thomas Jones*, and *Thomas Russel*, Esquires, and their Successors; and to remain as a Society or Body Corporate, by the Name of the Governor, Assistants, and Society of Sope-makers, and that they shall have the same to them and their Successors.

Giving them and their Successors power to erect and admit Persons into their Society, and to purchase Lands and Hereditaments to them and their Successors, in Fee and Perpetuity, for Life or Years, and dispose of the same as they shall please.

And the King by the said Patent doth nominate and appoint Sir *Richard Weston* Knight, to be the first Governor of the said Society; and the said Sir *Henry Compton* and others to be the Assistants.

And all Sope-boilers who will not come into their Corporation, are to be prohibited the Trade of Sope-boilers. And a good Revenue yearly was brought into the King's *Exchequer*, as is hereafter mentioned, viz. 10000 *l.* by way of Advance; and 8 *l.* per Tun paid also into the *Exchequer*.

Titles

7 Caroli.

Titles of PROCLAMATIONS, &c.

Pro Anno 1631.

- A Proclamation for the better directing of those who desire to repair to the Court, for the Cure of the Disease called the *Kings-Evil*. Whitehall, March 25.
- A further Proclamation prohibiting the Exportation of Corn and Grain. Whitehall, March 25.
- A Proclamation for the better ordering of *Fishing* upon the Coasts of his Majesty's Dominions. Greenwich, May 24.
- A Proclamation for preventing of Deceit used in the Importation of *Madder*. Greenwich, June 15.
- A Proclamation for the new Making, Altering, Amending, Dressing, Repairing, Proving, and Stamping of Armour, Guns, Pikes, and Bandaliers, both of the Common Arms, and Arms of the Trained-Bands throughout *England* and *Wales*. Greenwich, June 30.
- A Proclamation against such as wilfully and presumptuously contemn his Majesty's Royal Authority used in prevention of the barbarous use of *Duels*, particularly against *Peter Apfley* Esquire. Oatlands, Aug. 9.
- A Proclamation for revoking the Commission concerning *Archery*. Woodstock, Aug. 23.
- A Proclamation for the better Direction of those who desire to Repair to the Court for the Cure of the Disease called the *Kings-Evil*. Hampton-Court, Oct. 13.
- A Proclamation inhibiting the resort of his Majesty's People to the Court for cure of the *Kings-Evil* until the middle of *Lent*, and to restrain the access of others from Infected Places. Whitehall, Novemb. 8.
- A Proclamation concerning the Trade of *Guiny* and *Binny* in the parts of *Africa*. St. James's, Novemb. 22.
- A Proclamation commanding the due execution of the Laws made against Eating and Selling of *Flesh in Lent*, and other Times prohibited. Whitehall, Jan. 27.
- A Proclamation for the better encouragement and advancement of the Trade of the *East-India* Company, and for prevention of the excess of *private Trade*. Whitehall, Feb. 19.

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Whitehall,
Feb. 10.

A Proclamation for enabling all his Majesty's Subjects to trade within his several Dominions, without being further charged with Customs, or other Duties, than they of that Kingdom wherein they trade ought to pay.

Newmarket,
March 16.

A Proclamation for the well-ordering of the Silk Trade throughout *England*, &c.



Historical

Historical Collections

For the Year 1632.



WE begin this Year in a new method, which we purpose to observe for the following Years, being a brief Account or *Diary* of some remarkable Passages in order of Time for the whole Year of 1632, by commencing the Year with a Copy of the Arch-Bishop of *Canterbury's Diary*, written with his own hand; which we (being present) saw produced at the Lords Bar at the time of his Trial; wherein are many things contained, which will save us the labour to mention in the Body of *Historical Collections*, and will gain greater Belief with the Reader (being his own words) than if they had bin never so truly related by any Author upon Credit: And if there be Matters of less moment contained in the *Diary*, which are not so clear for History, yet are they subject Matter for Observation; and the Reader may ruminate in his Thoughts what the meaning should be of some dark Expressions, which we do not undertake to explain, neither are we so uncharitable to make publick in print the said *Diary*, as some* have done, seeming thereby to reflect on some Passages which had bin better omitted than published, but we pass them over.

* W. P.

The Bishop of London's Diary for the Year 1632.

I Preached at Court, *Saturday, May 26.*

Trinity-Sunday-Eve, I consecrated the Lord Treasurer's Chapel at *Roehampton*.

May 29. Tuesday, my meeting and settling upon expresse terms with *K. B.* in the Gallery at *Greenwich*, in which business God blefs me.

June 15. Mr. *Francis Windebank*, my old Friend, was sworn Secretary of State; which place I obtained for him of my Gracious Master King *Charles*.

June 10. Monday, I married my Lord Treasurer *Weston's* Eldest Son, to the Lady *Frances*, Daughter to the Duke of *Lenox*, at *Roehampton*.

June 25. D. S. with me at *Fulham*, Cum Ma. &c.

July 10. Dr. *Juxon*, the Dean of *Worcester*, at my suit, sworn Clerk of his Majesty's Closet; that I might have one that I might trust near his Majesty, if I grew weak or infirm, as I must have a time.

July 17. I consecrated the Church at *Stanmore Magna* in *Middlesex*, built by Sir *John Wolstenham*.

December 2. Sunday, The Small Pox appeared upon his Majesty, but God be thanked, he had a very gentle Disease of it.

Decemb. 27. Thursday, The Earl of *Arundel* set forwards towards the *Low Countries*, to fetch the Queen of *Bohemia* and her Children.

Decemb. 25. I preached to the King, *Christmass-day*.

Jan. 1. My being with *K. B.* this day in the afternoon, troubled me much, God give me a good issue out of it.

An. 1632.

Jan. 15. K. B. and I unexpectedly came to some clearer Declarations of our selves, which God bless, &c.

Feb. 11. Monday Night till Tuesday morning the great Fire upon London-Bridge, many Houses burnt down.

Wednesday, Feb. 13. The Feoffees, that pretended to buy in Impropriations, were dissolved in the Chequer-Chamber. They were the main Instruments for the *Puritan Faction*, to undo the Church; The Criminal part reserved.

Feb. 28. Thursday, Master Chancellor of London, Dr. Duke, brought me word, how miserably I was slandered by some Separatists; I pray God give me Patience, and forgive them.

March 6. Ash-Wednesday, I preached at Whitehall.

Here were at this time some who were averse to the way of the times, and did not forbear to speak against new Doctrines and Ceremonies: as appears by the following Proceedings in the High Commission.

May 6.
Mr. Barnard
questioned in
the High Com-
mission Court,
and censured,
the Archbish.
being present.

Mr. Nathaniel Barnard, Lecturer of St. Sepulchers, London, in his Sermon preached at St. Maries in Cambridge, delivered smart Passages against possibility of Salvation in the Faith and Worship of the Church of Rome, as it was Decreed in the Council of Trent; and against the Introducing of *Pelagian* Errors, and *Romish* Superstitions into our Church; for which he was articted against in the High-Commission-Court. His Text was, 1 Sam. 4. 21. *The Glory is departed from Israel, (because the Ark of God was taken away.)* For which he was censured, and ordered to make this Recantation.

The Recantation ordered for Mr. Barnard, (which he refused to make) was as followeth.

Whereas by a Sermon, made by me in this place the 6th of May last, upon this Text, 1 Sam. 4. 21. [*The Glory is departed from Israel, because the Ark of God was taken*] I had this Passage; [*And the Apostle, Rom. 1. 16. affirmeth of the preaching of the Gospel; that it is [the Power of God unto Salvation] id est, It is that Mean by which God manifesteth his Omnipotent and Irresistible Power, in the Conversion and Salvation of all those, who from Eternity were ordained hereto by God's absolute and immutable Decree.*]

For which Passage he was enjoined to make this Recantation following:

And I do here publicly acknowledge, that hereby (contrary to his Majesty's Command in his Declaration lately published, and printed with the Articles of Religion) I did go beyond the general meaning of that place of Scripture, and of the said Articles, and drew the same to maintain the one side of some of these ill-raised differences which his Majesty's said Declaration mentioneth: And this I did rather out of a desire to thrust in somewhat into my said Sermon, in affirmation of one side of the said Differences, than any ways occasioned by the Text I then preached of.

For which I here publicly profess my hearty Sorrow, and do humbly crave pardon of God Almighty, of his Majesty, and of this Congregation.

And

And whereas in the same Sermon I had this Passage,

[If God's Ordinances for his publick Worship in their purity are the Glory of a Nation; then it follows that they who go about to deprive a Nation of any of God's Ordinances for his publick Worship either in whole, or in the least part of them, (id est) in their purity and integrity, they go about to make that Nation base and inglorious; and if so, then are they enemies to that Nation, and Traitors to it, if it be their own Nation: for Treason is not limited to the Royal Blood; as if he only could be a Traitor who plotteth and attempteth the dishonour, or shedding thereof, but may be, and is too oft committed against the whole Church and Nation: which last is so much the worse of them two, by how much the End is better than the Means, and the Whole of greater consequence than any one Part alone. Whereby we may learn what to account of those among our selves (if any such be) which is better known to you than to me, who endeavour to quench the Light, and abate the Glory of our Israel, by bringing in their Pelagian Errors into the Doctrine of our Church established by Law, and the Superstitions of the Church of Rome into our Worship of God, as high Altars, Crucifixes, and bowing to them (id est) (in plain English) worshipping them; whereby they symbolize with the Church of Rome very shamefully, to the irreparable shipwreck of many Souls who split upon this Rock.]

I do now upon better Information find, that many erroneous and dangerous Assertions, and Consequences unfitting to be here exprest, may be collected and inferred out of the said words; and I do therefore here publicly recant all the said Words, as they are, by way of use or inference and application, used by me, to be very rashly and inconsiderately uttered, and to be very undutiful towards his Majesty. I do humbly refer and submit my self to his Majesty's Clemency and gracious Acceptance for the interpretation of my meaning of the same; and I am heartily sorry, and do humbly crave pardon, that words and applications so dangerous and scandalous to the present state of the Church of England proceeded from me.

Thirdly, Whereas in the same Sermon I had this Passage;

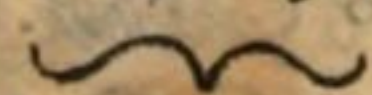
[By God's Ordinances here I understand chiefly the Word, Sacraments and Prayer, in that purity and integrity, wherein the Lord Christ left them, not blended and adulterated with any superstitious Inventions of Man, for then they cease to be God's Ordinances, and he owns them no longer.]

I desire this passage may be taken and understood as I spake and meant it, and not otherwise; that is, not that I hold all humane Inventions added to God's Ordinances to be superstitious; for I account that Tenent not only false but palpably absurd and foolish. But to exclude all those humane Inventions which may hinder the preservation of the Doctrine and Discipline of this Church of England in that purity and integrity, wherein through God's Gracious Goodness by his Majesty's Laws Ecclesiastical we do enjoy them.

Fourthly and lastly; Whereas by some other Passages in my said Sermon I was (as I understand) conceived by some not only to cast Aspersions upon the present state of our Church, and some principal Members and parts thereof, thereby to bring it and them into scandal and dislike; but even under some ambiguous words, as if it were to move to take up Arms for Redress, although with recalling or restraining the same in terms afterwards, saying thus;

[Let

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‘| Let us pray these Men either to Conversion (if it be God’s blessed Will) or to their Destruction, Fiat Justitia pereant illi, and calling them crafty Achitophels, &c.]

‘I do here acknowledge and profess I had no such Intentions, neither do I know any cause why my self, or any other, should so bitterly inveigh against any in our Church. I am therefore heartily sorry that I gave cause to any of the Hearers to conceive so: And I humbly crave pardon for it.

Mr. *Bernard* refused this Recantation, yet in general terms professed his sorrow for any Oversights, and unbeseeming Expressions in his Sermon. He was fined in the *High Commission Court* a thousand pound, and suspended his Ministry; Condemned in Costs of Sute, and committed to Prison, &c.

The Trial of *Rea* and *Ramsay* in the Court of Honour before the Lord High Constable and Lord Marshal.

On the 8th of May this Year, a period was put to the great Trial in the Court of Honour before the Lord High Constable, and Lord Marshal, between *Rea* and *Ramsay*, concerning the forementioned Accusation of High Treason against Marquess *Hamilton*, which begun to have a Hearing in November the last Year, and was now decreed by that Court in this Year to be determined by Combat: which in regard it is a Trial Remarkable after the Proceeding of the Civil Law, we have given the Reader an Account thereof at large, however take his Majesty’s thoughts of it, as it is expressed in this Letter to the Marquess.

James,

The King writeth to Marq. *Hamilton* of the proceeding in the Trial between *Rea* and *Ramsay*.

Since you went I have not written to you of Mackay’s business, because I neither desire to prophesie nor write half News; but now seeing (by the Grace of God) what shall be the end of it, I have thought fit to be the first Advertiser of it to you. I doubt not but you have heard, that (after long seeing of Proofs for clearing the business as much as could be, and Formalities which could not be eschewed) the Combat was awarded, Day set, Weapons appointed: But having seen and considered of all that can be said on either Side, as likewise the carriage of both the Men, upon mature deliberation I have resolved not to suffer them to fight. Because, first, for Mackay he hath failed so much in his Circumstantial Probations, especially concerning *Mulchamp*, upon whom he built as a chief Witness; that no body now is any way satisfied with his Accusations. Then for David *Ramsay*, though We cannot condemn him for that which is not, yet he hath so much, and so often offended by his violent Tongue, that We can no ways think him innocent, though not that way guilty whereof he is accused; wherefore I have commanded the Court shall be dismissed, and Combat discharged, with a Declaration to this purpose, That though upon want of good Proof the Combat was necessarily awarded, yet upon the whole matter I am fully satisfied that there was no such Treason as Mackay had fancied. And for David *Ramsay*, though We must clear him of that Treason in particular, yet not so far in the General, but that he might give occasion enough by his Tongue of great Accusation, if it had been rightly placed, as by his foolish presumptuous Carriage did appear.

Combat discharged.

This is the substance, and so short, that it is rather a Direction how to believe others, than a Narrative it self; one of my chief ends being that you may so know David *Ramsay*, that you may not have to do with such a Pest as he is, suspecting he may seek to insinuate himself to you upon this Occasion:

caſion: Wherefore I muſt deſire you, as you love me, to have nothing to do with him.

To conclude now; I dare ſay that you ſhall have no diſhonour in this Buſineſs; and for my ſelf, I am not aſhamed that herein I have ſhewed my ſelf to be,

London, May 8.

1632.

Your Faithful Friend,

and Loving Couſin,

CHARLES R.

By the Interceſſion of the Biſhop of London, this Year, *Walter Curl* was Tranſlated from the Biſhoprick of *Bath and Wells* to *Wincheſter*.

Robert Wright from the Biſhoprick of *Briſtol* to that of *Coventry* and *Lichfield*.

Auguſtine Lindſey was made Biſhop of *Peterborough*.

And Dr. *Pierce* Biſhop of *Bath and Wells*.

8 Caroli.

Four Biſhops advanced.

Concerning the well making of Sope.

His Maſteſty intending the advancement of the Native Commodities of this Realm, and the prevention of divers Deceits commonly uſed in the making of Sope, with Foreign and unſweet Materials; and of the exceſſive Rates in the ſale of ill Sope, at the pleaſure of the Sope-boilers, being no Body Politick, nor govern'd by any good Order: And reſolving to make the Manufacture of Sope and Pot-Aſhes a Work of his own People, did, by Letters Patents dated the 20th of January laſt paſt, incorporate divers Perſons, by the Names of *Governors, Aſſiſtants, and Fellows* of the Society of *Soapers* within *Westminſter* and *Middleſex*; and that it ſhould be lawful for them, and their Succeſſors, to exerciſe the ſaid Art and Myſtery; and that they ſhould chuſe ſkilful Perſons out of the ſaid Society, to overſee all Works, Workmen, &c. uſing the ſaid Art and Myſtery, and to prevent fraud and deceit therein. And that none of the ſaid Sope ſhall be put to ſale, before the Overſeers ſhall have overſeen the ſame, and have marked it for good; and to puniſh the Gainſayers and Rebellers of his Maſteſty's Proclamation.

And the *Governors, Aſſiſtants, and Fellows* of the ſaid Society, did by Indenture, ſealed with their Common Seal, made between his Maſteſty of the one Part, and them of the other Part, covenant, to erect and maintain ſuch Workhouſes as might make 5000 Tun of good Sope, and a further proportion if need ſhould require.

And his Maſteſty, by his Letters Patents, did erect an Office for keeping of Patterns, and making the Eſſay of Sope to be made by the *Governors, Aſſiſtants, and Fellows* of the Society of *Sopers* of *Westminſter*; and appointed *F. C.* to be the firſt Eſſay-Maſter, and to take an Oath for the true execution of his Office.

His Maſteſty therefore did charge and command the ſaid Society, That they uſe no other Oil in making of their Sope, but Olive-Oil, and Rape-Oil, by which means the Sope may be ſweet, good, and ſerviceable; and that none do put to ſale any Sope, Pot-Aſhes, &c. before they be Eſſayed, and tried to be found good and ſerviceable, and ſo marked by the Deputies of the ſaid Society.

The

An. 1632.

June 20.
The King
commanded the
Gentry to keep
their residence
at their Man-
sions in the
Country; and
forbids them
to make their
habitations in
London, and
Places adjoin-
ing.

The King being informed, that of late Years a great number of the Nobility, Gentry, and Abler sort of his Subjects, with their Families, resorted to the Cities of *London* and *Westminster*, and Places adjoining, and there made their Residence, more than in former Times; contrary to the Ancient Usage of the *English* Nation, which had occasioned divers Inconveniencies: for whilst their Residence was in the Country, they served the King according to their Degrees and Ranks, in aid of the Government, whereby, and by their House-keeping in those parts, the Realm was defended, and the meaner sort of People were guided, directed, and reliev'd; but by their residence in the said Cities of *London*, *Westminster*, and parts adjoining, they had not Employment, but lived without doing any Service to Prince or People: A great part of their Money drawn out of their several respective Counties, and spent in the City, in excess of Apparel, provided from Foreign Nations, to the enriching of other Nations, and consumed their time in other vain Delights and Expence, even to the wasting of their Estates.

‘His Majesty therefore touched with a deep sence of those Inconveniencies, doth straightly charge and command, that before the end of forty days, his Lords Spiritual and Temporal, Lieutenants, Deputy Lieutenants of Counties, Justices of Peace, Baronets, Knights, Esquires, Gentlemen, and all Clerks having Benefices with Cure, Prebendaries, or Dignities in Cathedral or Collegiat Churches, that have Mansion-houses, and Places of Residence in other Parts; that they do resort to the several Counties where they usually resided, and there keep their Habitations and Hospitality, &c. except such as are of his Majesty's most Honourable Privy-Council, or bound to daily attendance on the King, Queen, or their Children.

‘Further declaring, That it was his firm resolution to withstand this great and growing Evil, by a constant severity towards the Offenders; and therefore gave this timely warning, that none hereafter might presume to transgress.

July 16.
Against Build-
ing on New
Foundations
in London.

The King at this time took into his Princely Consideration, the state of his City of *London*, being his Royal Chamber, and Imperial Seat of his Kingdom, renowned over all Parts of Christendom.

‘And foreseeing that the Honour, Government, Health and Safety of the City, is of great consequence unto his Majesty, and the whole Kingdom: And that his Royal Progenitors, in former Times, especially his Royal Father, of blessed Memory, King *James*, and the most excellent Princess Queen *Elizabeth*, in their Times had carefully provided for the same, straightly prohibiting the erecting of Houses and Buildings upon new Foundations, and the entertaining of Inmates in and about this City, which would multiply the Inhabitants to such an excessive number, that they could neither be govern'd nor fed; and for putting these his Majesty's Commands in due execution, he did make, and several times renew Commissions, directed to the Lord Mayor of the said City, and divers other Persons of Honour and Worth, grounding the same upon the Rules of Law and Justice, as against publick and common Nuisances, as well as upon Reasons of State and Government, all tending to the publick Good

‘ of

of the People; but that taking not so full effect hitherto, as the King expected, his Majesty hath now again resolved to renew that his Commission to divers Honourable Persons, and others of Worth and Understanding, requiring them forthwith in their own Persons, as by other good ways and means, to inquire and find out the Offenders, and Offences against this his Majesty's Declaration, and to make Certificate thereof to the Council-Board, or in the Court of Star-Chamber, to the end that such Proceedings may be had against them, as may stand with the King's Honour, and the Laws of the Land. See more of this at large in the *Appendix*, which contains also his Majesty's particular Rules for the putting this Commission in execution, which are very large.

8 Caroli.

Whereas the Kings Royal Father, King *James*, did constitute an Office, called, *The Office of the Postmaster of England for Foreign Parts*, who should have the sole taking up, sending, and conveying of all Pacquets and Letters into those Parts, with power to take moderate Salaries; and did appoint and constitute first *Matthew de Quester* to execute that Imployment; afterwards *William Frizel* and *Thomas Withering*, and their Deputies, to do all things appertaining to the same.

Concerning the Postmaster of England for Foreign Parts.

The Merchants of the *English* Nation, praying his then Majesty to continue them in that Office, his most Excellent Majesty that now is affecting the welfare of his People, and considering how much it imports his State and this Realm, that the Secrets thereof be not disclosed to Foreign Nations, by a promiscuous use of transmitting, or taking up of Foreign Letters, was pleased on the 19th of *July*, to appropriate the said Office to *Frizel* and *Withering* aforesaid, with prohibition to all others to intermeddle therewith.

Doctor *Lamb*, commonly so called, was now living, though neither Doctor nor any way Lettered, but a Man odious to the Vulgar for some Rumors that went of him, as a Conjuror, or Sorcerer. He was quarrell'd withal in the Street in *London*; and as the common People more and more gathered about him, so they pelted him with rotten Eggs, Stones, and other Riffraff; jostled him, beat him, bruised him, and so continued pursuing of him from Street to Street, till there were five hundred People in a plump following him: This continued three hours at least, until Night, and not a Magistrate or Officer of Peace once shewed himself to stop the Tumult; and so the poor old Man, being above eighty Years of Age, died of this violence, and no Inquisition was taken of it, nor any Malefactor ever discovered. For which Negligence, an Information was put in the *Kings-Bench*, by Mr. Attorney *Noy*, against the Mayor and Citizens; and they submitted to the Grace of the Court, and were fined by the said Court 1500 Marks by the Common Law, and not upon the Statute of 28 *Ed.* 3. nor upon the Statute of 4 *H.* 4. see the Statutes.

The City of London about the Death of Dr. Lamb is fined.

The Information brought against the Mayor and Commonalty of *London*, was to this effect.

The Information.

Whereas they were incorporated by that Name, and it was a Walled City, and recites the Statute of 2 *E.* 4. That the Mayor for the time, and all who have been Mayors, should be Justices

Term Pasch. 8 Car. Dr. Lamb.

An. 1632.

of the Peace within the City; and that the Sheriffs are made among themselves, and Coroners appointed by themselves, and that by Law they ought to suppress Riots, and unlawful Assemblies. Notwithstanding in *Jun. 4. Car.* in the day time, That one *John Lamb*, alias dict. *Doctor Lamb*, was slain in a Tumult, and none of the Offenders taken, nor any Person known or indicted for that Felony. And upon this Information, the Mayor and Commonalty appeared, and confessed the Offence, & *posuerunt se in gratiam Curiae, &c.* for which they were amerced to 1500 Marks; for it was conceived to be an Offence at the Common Law, to suffer such a Crime to be committed in a walled Town, *tempore diurno*, and none of the Offenders to be known or indicted; *vide 3 E. 3. Corone 299. 22 E. 3. Coron. 238. 8. E. 2. Coron. 425. Stamf. fo. 33. Cok. lib. 7. fo. 7. 3 H. 7. 15. Dyer. 210.* And *Noy*, Attorney General, shewed a Record, *Mich. 18. E. 3. Rot. 132.* an Indictment of a Town in *Devonshire*, for suffering an Assembly, as it were, to hold Assizes in mockery of Justice. And *21 H. 6.* a Presentment before *Fortescue*, against the Town of *Norwich*; That there was a great Riot in *Norwich*, and one *Gladman* took upon him to be King, and went with a Crown of Paper, in a riotous manner, to the Priory of *Norwich, &c.* And although it appears not upon the Roll, *quid inde venit*, yet *per Rot. Patent. 27 H. 6. Memb. 13.* their Liberties for that Cause were seized, and regranted.

August 1.
Concerning
the Earl of
Strafford his
Trial, as to an
Article, charging
him with
words spoke at
York Assizes.

Thomas Lord Vicount Wentworth, Lord President of the Council in the North, in *August* this Year, at the Publick Assizes held at the Castle in the County of *York*, let fall some words, which the Gentlemen of the Country then present took great exception at; and afterwards the same were laid to his Charge by the Parliament as a Crime.

Here followeth the words, and the Lord Vicount *Wentworth's* Answer in his Defence; for it were unjust to set down the Crime, and not the Defence of the Accused, although it be a Digression in point of Time.

To prove the words the first Witness that was produced did testify;

That when Sir *Thomas Leyton* was Sheriff of *Yorkshire*, in the Year 1632, he heard the Earl of *Strafford* say these words, *That some nothing would content but Law; but they should know, the King's little Finger should be heavier than the Loins of the Law*; and that this was spoken in the place where the Judges sat in *York Castle*, at the Assizes that Year.

And the High Sheriff himself being produced, testified, that his Lordship said, *Some would not be satisfied but by Law, but they should have Law enough, for they should find the King's little Finger should be heavier than the Loins of the Law*; and that his Lordship was upon the Bench when he spake those words.

The Testimony of these two Persons was confirmed in substance by another Witness, whose Examination was read, himself being dead; they all agreed the time when these words were spoken, to be in the Year 1632, or 1633.

DEFENCE.

D E F E N C E.

The Defendent knows not whether it be material for him to answer this or no, because the words are charged upon him to be spoken in *August*, after the 21 of *March*, 8 *Car.* which appears to be when he was in *Ireland*; but he will not stand upon such niceties, (there might be a mistake in point of time) he desires the Truth may appear. The words said by him, were quite contrary to the Charge: he said, *The little Finger of the Law was heavier than the King's Loins.* The occasion of which words was this, There came divers Levies in the Year when Sir *Thomas Layton* was High Sheriff, for divers great Sums of Mony for Issues in the Knighthood Business, on some that had compounded, and paid their Mony to him the Defendent, who was the Receiver of that Mony, which he paid into the *Exchequer*; yet these Issues came out of the *Exchequer* by some Error above, and were levied with very great rigor by Sir *Thomas Layton*. When the Defendent came down, he shewed Sir *Thomas Layton* how the Men were injured by such Process, and desired him to return their Mony to them again, and he would see him discharged. And then to give satisfaction to the Country, he told them, That the Commission for *Knighthood-Mony*, was a Commission of Grace and Favour; and that their compounding with the King was an ease to them, and much greater ease than by a proceeding at Law would have fallen on them, the very Issues being three or four times more than they had compounded the whole for. And thereupon I applyed that Speech, *The little Finger of the Law is heavier than the Loins of the King*; and if he should have fallen to threaten, he had spoken contrary to the end purposed by him, which was to incline them; and none of the Witnesses against him spake any thing to the occasion of that Speech. It is long since these words were spoken, and they were never yet complained of, and he must have a strong Memory, that will swear positively to the very words spoken seven or eight Years ago; and ought to have better ears than one of the Witnesses produced, who appears to have such an infirmity in his hearing, that he must be whooped to at the Bar before he can hear; and sure his Sense of Hearing is much amended, else he could not hear my Lord of *Strafford* at that distance, to the place where he sat as *High-Sheriff* in open Court. Then he produced two Witnesses, the one testified that he heard a Gentleman of the County say, who was present at that Assizes, that my Lord spake the words in manner and occasion, as related by his Lordship; and another Witness (now a Member of Parliament) who was present at that time upon the Bench testified the same.

R E P L Y.

Though as to point of Time the Month was mistaken in the Article, yet that is not at all material, the Offence is, That his Lordship spake the words, and that he was on the Bench when he spake them.

As to his Lordship's exception to the Witness, which he said had need have better Ears; it was replied, he had not been deaf above two Months; and that two other Witnesses concurred fully in the

An. 1632.

Point with his Testimony. And for the first Witness produced in his Lordship's behalf, it is but a Hearsay from one that spake it at the Table.

Hereupon the *Sheriff* was again interrogated, who testified upon Oath, That he had his Hearing well till about *Christmas* last, and said, he stood within four yards of the Earl of *Strafford* when he spake these words at *York* Assizes.

Two other Witnesses were produced, who testified the forementioned words to be spoken by his Lordship, the first whereof gave an Account of the Occasion.

In Answer to this new Testimony the Earl said, That the Point he must insist upon is, *That the very words, if they had been spoken by him as they are laid, are no Treason within the Statute, and that being a Point of Law, he craved leave to reserve himself to be heard by his Counsel in a fitting time.*

Then said the Gentleman that managed the Evidence against him, Your Lordship may be pleased to take notice, that there are five Witnesses express in the Point. Upon which your Lordship's Judgment is expected.

Concerning
greedy Cor-
morants and
Hoarders of
Corn, forbid-
ding to trans-
port any Corn.

Considerations being had the 30th of *September*, of the manifold evil Practices, which for private Gain are too often put in practice, as well by Hoarders of Corn, as by Merchants and others, to enhance the Price thereof, which appeared in the time of the late Dearth: And yet false Rumours are spread and divulged of great Transportation of Corn, licens'd by Authority, to the dishonour of the King and State; It was then declared by King and Council, 'That all the said Rumours
' were most false, untrue, and scandalous, and the penalty of the Laws
' was ordered to be severely inflicted on the Divulgers thereof; with
' a strict Prohibition, that for the space of one Year no Corn or Grain
' be Transported; to the intent that the Plenty which then was,
' might not be turned to the enriching only of a few greedy *Cormo-*
' *rants.*

Counterfeiting
of Seals usually
affixed to Col-
chester Bays.

One *Thomas Jupp*, a Clothworker of the City of *London*, being on the 12th of *October* at Bar of the Court of *Star-Chamber*, his Majesty's Attorney-General, Mr. *Noy*, informed the Court that he had taken the Examination of the said *Thomas Jupp*, concerning the Counterfeiting of Seals affixed to the Bays of *Colchester*, and the fixing them to other Bays of meaner condition; and shewed forth certain *Iron Stamps*, and pieces of Bays sealed with *Counterfeit Seals*, put to Bays not of the making of *Colchester*, but of less estimation. And his examination being read in Court, and he confessing the truth thereof; The King's Attorney-General prayed that some exemplary Punishment might be inflicted upon him. Whereupon the Court did declare in these terms, 'That the Offence of the said *Thomas Jupp* is a false Cozenage
' and Deceit to the Buyers, and a Prejudice to the Sale of their Clothes;
' and therefore the Court doth adjudge and decree the said *Thomas*
' *Jupp* to be committed to the *Fleet*, fined a Thousand Pounds to the
' King, and be set upon the *Pillory* in *Cheapside*, with a Paper in his
' Hat, declaring the nature of his Offence; and also to be set upon the
' *Pillory* at *Cornhil-Exchange*, *Blackwell-Hall*, *Bocking*, and *Colche-*
' *ster*, upon several Market-days, with the like Paper on his Hat.

Now

Now forasmuch as the Decree of the Court in this Case is drawn up with great care, to prevent the like Abuse for the future; We have inserted the same at large in the *Appendix*.

Whereas by the Statute made in the Reign of King *Henry* the 8th, prices of Victuals are appointed to be Rated in such manner as in the said Statute is declar'd; but it is manifest by the said Statute, Corn is none of the Victuals thereby intended. Nevertheless some ill-affected persons endeavouring to bring a charge upon the Subjects, contrary to Law, did surmise, that the prices of Corn might be rated and set according to that Statute, and thereupon great gain might be raised to his Majesty by Licenses and Dispensations, for selling Corn at other Prices: and a Command from his Majesty being procur'd to the Judges, and sent to them by Mr. *Noy*, his Majesty's Attorney General, to deliver their Opinions touching the Question, Whether Corn was such Victuals as was intended to have the Price rated within the said Statute? In answer to which Demand, Sir *R. B.* one of his Majesty's Justices of the *King's-Bench*, in furtherance of the said unlawful Charge endeavoured to be imposed, as aforesaid, the 30th day of *November*, in the eighth year of his then Majesty's Reign, did deliver his Opinion, *That Corn was such Victual as was intended to have the Price rated within the said Statute.* Which said Opinion was afterward declared by *Parliament* to be contrary to Law, and the plain sense and meaning of the said Statute, and contrary to that Judge his own knowledge; and the Parliament afterwards, among other things, impeached him, *That this Judgment was given and delivered by him with a purpose and intention, that the said unlawful Charge might be imposed upon the Subject.*

‘ The King taking into his Consideration, That the ordering of Coin, and the value of Coin within this Realm pertaineth to his Majesty, as a part of his Regality; and that the making and allowing of Weights and Counterpoises of Current Money, whereby discovery shall be made of the Justness thereof, is proper to the King; And that many Complaints have been made of many and great Abuses daily committed within the Kingdom; That divers Counterpoises of the King's Mony of Gold, (commonly called *Gold-Weights*) and Beams and Ballances for the poising of those Moneys, are made and put to sale, marked with the King's Ensigns, yet are not equal and just, whereby the Subjects are deceived.

‘ Wherefore for Redress of such Abuses, and that the Beams and Ballances may be equal, the Kings Majesty hath taken into his own hands the making, assising, and issuing of those Counterpoises, or Weights with Grains; and hath appointed Sir *Thomas Ailesbury* to have the sole making and putting to sale those *Gold-Weights*, ordered to be of a round and circular form; prohibiting all others to make any of them, other than such as shall be licensed by the said Sir *Thomas Ailesbury*, who is required to take care that the said *Gold-Weights* and Grains, or half Grains, shall be made so as the whole Kingdom may be supplied therewith. And that the Offenders against this his Majesty's declared Pleasure shall be proceeded against in the King's High-Court of *Star-Chamber*, or elsewhere.

At this time there was such plenty of Gold in the Kingdom, and such scarcity of Silver, that the Drovers and Farmers, who brought their

8 *Caroli.*

A Complaint against a Judge for delivering an Erroneous opinion about the setting Prices upon Corn.

Decemb. 20.
Concerning
Gold-Weights.

An. 1632.

Concerning
the Plenty of
Gold.The Feoffees
Instruments for
Impropriations
called in que-
stion in the
Exchequer.
William Noy
Attor. Gen.
Plaintiff.The Informa-
tion.The Defen-
dents Answer.

their Cattel, Sheep and Swine to be sold in *Smithfield*, would ordinarily make their bargain to be paid in Silver, and not in Gold; And besides in this time people did ordinarily give two pence, and sometimes more, to get twenty shillings in Silver for the exchange of a Twenty-shilling piece in Gold full Weight.

And in and about *London* and *Westminster*, as well as in other parts, most people carried Gold Scales in their pockets, to weigh Gold on all occasions, and had them from that Office for that purpose erected,

The Bishop of *London*, as is already mentioned, having formerly projected the overthrow of the Feoffees for the buying in of Impropriations, as the main Instruments of the *Puritan Faction* to undo the Church; The Cause was brought by Information into the *Exchequer*, by Mr. Noy the King's Attorney General, Plaintiff, against William Gough, Richard Sibbs, Giles Off-spring, John Dampart, Clerks. Sir Tho. Crew, Knight; Robert Eyers, an Apprentice of the Law; John White, Sam. Brown, Utter Barristers at Law. Nicholas Rainton, Alderman of *London*. John Gearing, Rich. Davies, George Harwood, Frances Bridges, Merchants; William Leman, Thomas Foxley, Clerks; and Mr. Price, Defendants.

The Information was to this effect.

‘ That since the tenth Year of the Reign of the late King, these Feoffees, to the intent to procure into their hands divers Manours, Lands, and Tenements, Rectories, Tythes, Oblations, and Sums of Money, which well-disposed People should give to the sustaining and endowment of Perpetual Vicars, having Cure of Souls, and other Charitable Uses; did of their own Authority erect and make themselves into a Society, or Body Corporate, called sometime by the name of the Collectors of *St. Antholins*; and used to hold Assemblies and Councils, and make Ordinances, appoint Registers and Actuaries for their doings: And have gotten into their hands Sums of Money, intended by the Donors for the foresaid Pious Uses; With part whereof they had purchased divers Rectories, Tythes, Prebendaries, Lands and Tenements, the Remonstrances whereof are registred in a Book, and had not employed the same as was intended by the Givers, as by Law they ought.

Mr. Attorney further shewed, That it did appertain to his Majesty's care, That such Donations for Augmentation of Divine Worship and Publick Works of Charity, be not withdrawn, diminished, or misemployed, but be rightly distributed; and that an Accompt thereof ought to be made to His Majesty in this Honourable Court, or elsewhere. That without the Writings, Evidences, and Registers remaining in the custody of these Persons, or their Officers, there could be no perfect Charge whereon to make an Accompt. Wherefore for discovery of what Lands, Goods, Chattels, and Sums of Money, had come into their hands, and how the same were employed, and what Evidences and Registers remained in their keeping; and for an Accompt to be made of the distribution of all; He prayed Process of *Subpœna* against them to appear in this Court.

The Defendants appeared, and made Answer, ‘ That they believed Impropriations in the possessions of Lay-Men, not employed for the Maintenance of Preachers, was a great damage to the Church of
England;

England; and that the purchasing thereof for the maintenance of Divine Service and Preaching, is a pious Work. And that as divers Men may by the Law join in the purchasing of Manours and Lands, so without offence of Law they might confer how they might raise Moneys out of their own Purfes, and from their Allies and Friends, to purchase Improvements for the maintenance of Worthy, Painful, and Conformable Preachers; and that the Lands and Revenues were sufficiently conveyed unto Richard Stock, Alderman Hoyley, Christopher Sherland, deceased, together with themselves.

That they referr'd themselves for the several States and Uses thereof, to the several Deeds, Wills, and Declarations concerning the same. That the Donors of the Moneys, being many, gave the same towards the buying of Improvements, Maintenance of Preachers, and such other good Uses, as the Defendants should think meet; and not for the Endowment of Perpetual Vicars. That they had not converted to their own uses any of the Moneys, or other things given or purchased. That they had not enacted, or made themselves a Body Corporate, otherwise than they have here set forth. That to their knowledge they never presented any to any Church, or Place in their disposition, who was not Conformable to the Doctrine and Discipline of the Church of England, and Approved by the Ordinary of the Place.

And Sir Thomas Crew answered for himself, ' That since Hillary Term last, before the exhibiting of the Information, upon the Death of Christopher Sherland, one of the Readers of Grays-Inn, he was moved by some of the Persons above-named, to assist them in the Business; to which he willingly condescended, and was ready to join in so good a Work, the same tending to the maintenance of the Clergy that had not sufficient Means, and were conformable to the Orders of the Church, and painful and faithful in their Places.

Hereupon it was ordered, that the Books and Evidences should be brought into the Court, which was done accordingly; Upon the reading whereof, together with the Defendants Answer, and upon hearing of the Cause debated by the Learned Council on both Sides, the Court declared,

That the Defendants usurped upon the King's Regality, and of their own Authority assume themselves into a Body and Society, as if they had been Incorporated to a perpetual succession, and made Ordinances and Constitutions to establish themselves in perpetuity, as appeareth by this their Ordinance.

Judgment of
the Court.

That whereas four of them were in the Order of Priesthood, four were Professors of the Common-Law, and the rest Citizens of London; if any of them should die, or be removed, they should elect one into his place of the same Condition. And that all those that should have the profit of Improvements, or obtain any Ecclesiastical Presentation, should be bound by certain Conditions which they had framed. Also they chose among them a Tresurer, Secretary, Auditor, and a Common Servant of their Livery, and inflicted Mulcts upon such of them as met not at their Assemblies.

That they purchased diverse Improvements, but never restored one of them to the Church, by conferring it in Perpetuity upon any Incumbent, but kept them in their own hands, and disposed of the Profits to such Lecturers and Ministers, and in such Proportion, and for so long time as pleased them; and with other part thereof they bought Advowsons of Churches,

An. 1632.

The Judgment
of the Court.

Churches, Nominations of Lecturers and Schoolmasters, which the Court conceived was not in the intention of those that gave the Money for buying in of Impropriations.

Wherefore the Court was of Opinion, That the Proceedings of the Defendants was against the Laws and Customs of the Realm, and that they tended to the drawing to themselves in time the principal Dependency of the whole Clergie, that should have rewards from them, in such measure, and on such conditions as they should fancy, thereby introducing many Novelties of dangerous Consequence, both in Church and Common Wealth, and making Usurpation upon his Majesties Right.--That in not annexing Impropriations to perpetual Incumbents in purchasing Advousons, Nomination of Incumbents, Lecturers, and Schoolmasters, and buying and keeping of Leases, they had not behaved themselves as they ought to have done, nor according to the Trust reposed in them. And his Majesty having referred the further examination of these Designs, intending to question this Matter in the Star-Chamber, the Court did forbear to proceed to the inflicting of Punishments. Nevertheless it was Ordered and Decreed, That the Defendants should not from thenceforth hold any more Assemblies, or make Orders touching the Premises: Nor make any Alienations or Alterations of the Estates of the afore-mentioned Impropriations, Advousons, Manors, Lands, Tenements, and Leases, which shall remain in the Persons in whom they now are, till the Court take further order. And as touching the buying of these Impropriations, the Court thought it a pious Work; but the distribution of the Profits, as is before declared, would have grown to a great inconvenience, and prejudicial to the Government of the Church. And his Majesties Pleasure was made known, That whatsoever had been thus bestowed, should be employed wholly to the Good of the Church, and the Maintenance of Conformable Preachers in the right and best way. And it was further decreed, That Commissions should be made to such as the Court shall nominate, to enquire of all Rectories, Tythes, Impropriations, and of all Leases appointed to be sold, and of all Sums of Money appointed to be given for the purchasing of Impropriations; and upon the Returns made by those Commissioners, the whole Profits thereof shall be conferred upon perpetual Incumbents and their Successors, as his Majesty shall think fit. And as touching the Advousons, when any Church becomes void, the King's Majesty shall present, and School-masters shall be placed by his Nomination. And the Defendants shall make Accompt of all Receipts, before such Auditors as the Court shall appoint. And his Majesties Attorney General may give them a discharge, or except against the Allowances demanded by them.

Moreover, the King gave direction, That the Arch-bishop of Canterbury, the Lord Keeper, and other Lords and Bishops, should consider whether a Criminal Proceſs should be made against the Feoffees? and if so, then whether in the Court of Exchequer, or Star-chamber?

Not many days after, saith the Bishop, Mr. Chancellor of London, Dr. Duck, brought me word how miserably I was slandered by some Separatists; I pray God give me patience, and forgive them.

Also in February this Year Henry Sherfield Esq; a Bencher of Lincolns-Inn, and Recorder of Sarum, was censur'd in the Star-Chamber, for taking certain Pictures of God the Father out of a Glass-Window in St. Edmund's Church in Salisbury.

The

8 Caroli.

The Information in Star-Chamber against Henry Sherfield Esq; a Bencher of Lincolns-Inn.

THE Information was exhibited against him, and divers other Persons, by the King's Attorney-General; shewing, That in the Churches, Chappels, and Sacred Places within this Realm, no private Person ought to alter or innovate any thing in the Fabrick or Ornament thereof, without special Licence from his Majesty, or the Bishops in their several Diocesses, much less deface or diminish any part thereof against their Direction: but the Defendent, *Sherfield*, Recorder of *New Sarum*, and dwelling in the Parish of *St. Edmonds*, being evil affected to the Discipline of the Church of *England*, and encouraging such as oppose the Government thereof under the Reverend Bishops; and the other Defendents, being of the same Opinion and Practice, and of the same Parish, did, by Combination, about *January, Anno 1629*, irreligiously conclude to deface and pull down a fair and costly Glass-Window in the Church aforesaid, containing the History of the Creation of the World; which had stood there for Hundreds of Years, and was a great Ornament to the Church. And the Reverend Father in God, *John Lord Bishop of Sarum*, having heard the Report of this Purpose, sent a Messenger to Mr. *Sherfield*, and the other Confederates, to admonish them to forbear to put it in execution; and to that end he wrote a Letter to *Sherfield*, which came to his hand. Nevertheless *Sherfield*, with the Confederates, and other riotous Persons, did, unlawfully, riotously, and prophanely break down that Glass-Window in scorn of his Majesty's Government and Authority: And when that Prophane Act was done, they wickedly boasted thereof, saying, *He that had done it, would shortly take down all the rest.* That by this evil Example, other Wicked and Schismatical Persons, ill-affected to the Government of the Church of *England* under his Majesty, are animated to use the like violent and outrageous Courses; and the passing by of such an Offence committed by a Person of such Place and Quality in that City, and by a Combination of other Confederates, being also Persons of Note, would be of perilous Example.

Mr. Sherfield put in his Answer on May 20, following.

THAT the Church of *St. Edmonds* in *Salisbury*, about the Reign of King *Henry the Third*, was ordained to be a *Collegiate Church*, to consist of a *Provost* and thirteen *Priests*, who were to dwell in a College-House adjoining to the Church-yard, having a certain Revenue appointed to the maintenance thereof; which continued in Succession, and the *Priests* attended the Service, and celebrated Masses, and Divine Offices and Rites to the Parishioners of *St. Edmonds* Parish. This College and *Collegiate-Church*, with the Possessions and Revenue thereof came, by Act of Parliament, into the Hands of King *Henry the 8th*, and remain'd in the Crown till the 7th of King *James*. About which time the King by Letters Patents under the Great Seal, did grant that Church by the Name of the *Rectory* of *St. Edmonds* Appropriate, as Parcel of the Possession of the late College of *St. Edmonds*, unto *Anthony Gooch*, and *William Lloyd*, and their Heirs; who within, or about the same Year, conveyed the Church unto *John Bailly* and his Heirs; who, together with *John Beckingham*, in the Year following, did convey it unto *Bartholomew Tooky*, one of the Defendents, and

Mr. Sherfield's Defence.

An. 1632.

to his Heirs, except the Church-Yard, Ditch, and Walks about the same, and Trees growing thereupon: Which excepted Premises, *Giles Tooker* Esq; and *Edward* his Son, have ever since enjoyed under *Baily's* Title. And that in the 13th of King *James*, the Defendent *Tooky* did agree for a competent Sum of Mony, to instate and convey the Church, for the behoof of the Parishioners of *St. Edmonds*, for ever; and made them an Instrument of Conveyance, by virtue whereof the Persons intrusted were seized of the Church, as of a *Lay-Fee* upon Trust.

That the Church is a *Lay-Fee*, and hath so continued ever since it fell to the Crown; and that from the same time it hath bin legally exempted from the Jurisdiction of the Bishop of the Diocess; and the Defendents, with the rest of the Parishioners, had lawful Power, without special Licence from the Bishop, to take down the Glafs of the Window, and to make up the same with white Glafs.

That according to the Orders and Agreement of the Parishioners made in the Vestry, the Steeple of the Church hath been taken down and turn'd into a Tower; and also a part of the Wall hath bin taken down, to set a Glafs Window in the room; and the Glafs of other Windows hath bin taken down to set up new. The Reading Place hath bin removed from the Quire into the Body of the Church, and the Pulpit from one place pull'd down, and a new one set up; which Alterations were done, from time to time, by the Parishioners Agreement and Order, without special Licence from the King, or his Royal Predecessors, or the Bishop of the Diocess, and that fundry of them were made in the time of the Bishop that now is.

That it was agreed, by an Assembly of the Parishioners in the Vestry, *January* the 16th, 1629, That the Defendent might take down the Glafs mentioned in the Information; and about the time therein mention'd, he took down some small Quarries of the Glafs, that the Glasier might know, that that was the Window to be made new, and not any other.

But the Window yet remaineth, with a few Holes therein, so that the described Story may be plainly discovered: That it was not fair, nor costly, but of very rude Work; that it was but of four Lights only, and not any of the fair Windows of the Church; that the painting thereof, when it was made, did not cost above forty shillings; and that he shall be ready to new make it, according to the Order of the Vestry. He denieth all Confederacy with the other Defendents, and the riotous breaking of the Window: for that he took down a few small Quarries in a quiet and peaceable manner.

And whereas his Religion and Fidelity to Almighty God, and his Duty and Allegiance to his Sovereign Lord the King's Majesty, are brought in Question; he saith, *The true History of the Creation of the World was not contained in that Window, but a false and impious Description of the same.*

The Painter, to expresse God the Father, had painted the Forms and Pictures of divers little old Men seeming bare-footed, and cloathed in long blue Coats; and so setting forth every of the six days Work of God in the Creation, he had distinctly placed one such Picture of an Old Man, made to represent the Creator of Heaven and Earth, in six several places; with the joining near to them the likeness of some created Thing, to denote thereby what was made on each of the six days:

days: And to shew the third days Work, he had painted the Sun and the Moon, which were created the fourth day, and had placed in the Hand of one of those Pictures, representing God the Father, the similitude of a Carpenter's Compass, as if he had bin compassing the Sun, to give the true proportion thereof. To express the fourth days Work, he made the likeness of Fowls of the Air flying up from God their Maker, whereas God created them on the fifth day. To express the fifth days Work, he painted the similitude of a Naked Man lying on the Earth, as it were asleep, and so much of the similitude of a Naked Woman, as from the Knees upward, seeming to grow out of the side of a Man, whereas God did create Man on the sixth day; neither did the Woman grow out of the Man's side, but God took a Rib from the Man and made it a Woman. To represent the seventh days Story, he painted the seventh Picture of a little old Man, to resemble God in the habit of the other six, but had formed it sitting, to represent God's Rest.

That this was an impious Falsification, and prophane abuse of the History: and he holdeth it ungodly, and altogether unlawful to frame any Image or Similitude of God the Father, Creator of Heaven and Earth, and the first Person of the *Holy Trinity*; and that it is more ungodly and prophane to set up any such Image or Picture of God the Father in the Windows, Walls, or other parts of any Church dedicated to the Service of Almighty God, which he hopeth he shall be able in most humble manner to make appear to the Court, by the Holy and Pure Word of God, set down to us in the Books of the Old and New Testament; by the Canons of sundry Ancient Councils of the Church of Christ; by the Decrees and Mandates of sundry of the Christian Emperors; by the Opinions and Writings of many of the Ancient Doctors and Fathers of the Church; by many Godly Writers of our Church, since the time of Reformation of Religion within this Kingdom; sundry of whom did Seal their Belief with their Blood; by the Works of sundry Godly Writers of our Church, yet living, whereof some are now Reverend Bishops; among whom the Defendent hath cause to rely, in a special manner, upon the Doctrine of his Learned *Diocesan*, the now Lord Bishop of *Sarum*, in his Exposition on the Epistle to the *Colossians*, pag. 97, and 98. Also by the Royal Determination of King *James*, in his *Præmonition* to all Mighty Monarchs, Kings, Princes, and Free-States of Christendom.

That the same his Belief, is according to the Doctrine of the Church of *England*, established by Act of Parliament, 13 *Elizabethæ*, expressed in the Book of *Homilies*, set forth by Authority; *That the Pictures of God were Monuments of Superstition, and ought to have bin destroyed by the Statute made 3, and 4, Ed. 6th.* That Queen *Elizabeth*, Anno 1. according to an Act of Parliament then made, for the suppressing of Superstition in all her Dominions, did publish her Injunctions, whereby all that had Cure of Souls, were commanded to instruct their Parishioners to destroy all the Pictures and Monuments of Idolatry and Superstition; that no memory thereof might remain in Walls, Glass-Windows, or else-where. And that it was to be enquired of in the Visitations, Whether all Images, Pictures, Paintings, and all other Monuments of Idolatry were removed? And that the same Injunctions being grounded on the Statute 1 *Eliz.* are yet in force. Also that the same was lawful by the Canons of this Church, set forth 13

Eliz.

An. 1632.

Eliz. and agreed upon by the Arch-Bishop of *Canterbury*, and all the other Bishops of that Province.

And besides the Indignity and Contempt offer'd to Almighty God by such unworthy Resemblances of his Majesty, and Deity, in the foresaid Window, there was a Speech, That some ignorant Persons had committed Idolatry, by bowing before the same Resemblances of God.

Lastly; He denied that he was ill-affected to the Discipline of the Church of *England*, or had encouraged any, to his knowledge, to oppose the Government thereof under the Reverend Bishops; or that the Bishop of *Sarum* did send any Messenger, or write any Letter to him, to admonish him to forbear to put the Agreement of the Vestry in Execution; or that any such Messenger, or Letter, came to him; or that his Lordship, though he had frequent Conference with him, used any Speech touching his Pleasure to have that Window stand as it was, or not to be taken down.

Upon the hearing of the Cause, the Court pronounced Sentence against Mr. *Sherfield*; some Lords were to fine him 1000 *l.* to the King, but the greater part only 500 *l.*

That Mr. *Sherfield* should be fined 500 *l.* and be removed from the Recordership of that City; make a publick Acknowledgment of his Fault, and be bound to his Good Behaviour.

And for further satisfaction, take the Words of the Decree, as it was entered in the Register's Book of that Court.

Noy, Attor.
Regis v. Sher-
field, Armig.

Defacing a
Church Win-
dow, by colour
of a Vestry
Order.

THE Defendent being troubled in Conscience, and grieved with the sight of the Pictures which were in a Glass Window in the Church of *St. Edmonds* in *New Sarum*, one of the said Pictures, to his Understanding, being made to represent God the Father, did procure an Order to be made by the Vestry, (whereof himself was a Member,) That that Window should be taken down, so as the Defendent did at his own Charge glase it again with White Glass. And by colour of this Order, the Defendent, without acquainting the Bishop or his Chancellor therewith, got himself into the Church, made the Doors fast to him, and then with his Staff brake divers Holes in the said Painted Window, wherein was described the Creation of the World; and for this Offence committed, with neglect of Episcopal Authority, from whom the Vestry derives their Authority, and by colour of an Order of the Vestry who have no power to alter or reform any of the Ornaments of the Church, the Defendent was committed to the Fleet, fined 500 *l.* and ordered to repair to the Lord Bishop of his Diocess, and there make an acknowledgment of his Offence and Contempt, before such Persons as the Bishop would call unto him.

At the giving of the Censure of the Court, the Bishop of *London* speaking in favour of the Painter, mentioned a place in Scripture, where, said he, God is called the *Ancient of Days*, which might make the Painter of the Glass mistake. To which *Edward* Earl of *Dorset* replied, That by that Text was meant, God from Eternity, and not God to be pictured as an Old Man, creating the World with a pair of Compasses.

Considering

8 Caroli.
Pricing of
Wines.

Considering the difference of the Rates at which Wines are sold at this present, from what they were in this Year 1632, and formerly; it may not be useless or ungrateful to the Reader, to set down at large the Contents of a Proclamation, bearing date the 18th of February 1632, by which will appear the respective Prices at which Wines were to be sold either in Gross, or by Retale, throughout this Kingdom.

Whereas by the Statute made in the 28th Year of the Reign of King Henry the Eighth for Pricing of Wines, it is provided, that the Lord Chancellor, Lord Treasurer, Lord President of the King's most Honourable Privy-Council, Lord Privy-Seal, and Lord Chief-Justices of either Bench, or any five, four, or three of them, shall have Power and Authority by their Discretions, to set the Prices of all sorts of Wines, as in the said Statute is expressed. In pursuance whereof the Lord Keeper of the Great Seal of England, the Keeper of the Privy-Seal, the Lord Chief-Justice of his Majesty's Bench, and the Lord Chief-Justice of the Common-Pleas, the 28th day of December last past, did order, That Canary Wines, Muscadal and Alicant, should be sold in Gross for Sixteen pounds the Pipe, and at Twelve-pence the Quart by Retale; Sacks and Mallego's at Thirteen pounds the Butt in Gross, and Nine-pence the Quart by Retale. The best Gascoign and French Wines at Eighteen pounds the Tun; and the Rochel Wines, and the other small and thin Wines, at Fifteen pounds the Tun in Gross, and Six-pence the Quart by Retale; and according to those proportions for greater or lesser quantities, either in Gross or by Retale. And that none presume to sell at higher Prices, during the next Year then ensuing, whereof the Clerk of the Crown was to take notice, and to see the same proclaimed the then next Term in the Chancery, according to the Statute. And accordingly there hath been Proclamation made the first day of Hillary Term, being the 23d day of January last.

Now that all cause of Excuse may be removed from such as inhabit in remote parts of this Realm; and that such as shall be found Delinquents herein may acknowledge their own wilfulness, the cause of the Danger and Penalty they fall into after double Advertisement; His Highness's Will and Pleasure is, and by the Advice of the Lords and the rest of the Privy-Council, according to one other Statute made in that behalf in the Fourth Year of the Reign of his most noble Progenitor, King Edward the Third, by his Royal Proclamation doth publish and declare, That for one Year next following, Canary Wines, Muscadals, and Alicants be sold in Gross at Sixteen pounds the Pipe, and at Twelve-pence the Quart by Retale; Sacks and Mellago's at Thirteen pounds the Butt in Gross, and Nine-pence the Quart by Retale. The best Gascoign and French Wines at Eighteen pounds the Tun in Gross, and Sixpence the Quart by Retale; and the Rochel-Wines, and other small thin Wines, at Fifteen pounds the Tun in Gross, and at Five-pence the Quart by Retale; and according to these Proportions for greater or lesser quantities, either in Gross or by Retale. Which Rates and Prices his Highness's Pleasure is, shall be duly observed in all his Ports, and other places within this Realm where Wines are landed, and within ten miles of those Ports and Places.

And it is His Majesty's Pleasure, That in all Places where Wine by Land-

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Land-Carriage shall be conveyed more than Ten miles from the next Port, the several sorts of Wines aforesaid shall and may be sold according to the Rates aforesaid, allowing Four pounds the Tun, and one penny for the Quart for the Carriage thereof upon Land every Thirty miles, and according to that proportion, and not at greater Rates; strictly charging and commanding such of his Subjects, and others whom it may concern, That none of them, during the time aforesaid, presume to sell any of the said Wines in Gross, or by Retail, at higher Rates than by his Highness's *Proclamation* are appointed, under the Forfeitures and Penalties mentioned in the said *Statute*, and other Laws and Statutes of this Realm ordained in that behalf, and such further Pains and Penalties as by the Laws and Statutes of this Realm can or may be inflicted upon the wilful Contemners of his Majesty's Royal Command and Proclamation; Requiring and commanding all *Mayors, Justices of the Peace, Bayliffs, Customers, Comptrollers*, and other Officers of Our Ports, and all others whom it may concern, diligently to attend the execution of this Our Pleasure, and to give Information to the Lords and others of the Privy-Council, of the *Delinquents*, that they may be proceeded against, and receive Punishment according to their Demerits.

March 21.
Commission
to the Lord
President and
Council in the
North.

A Commission issued forth under the *Great Seal of England*, with certain Schedules of Instructions thereunto annexed, and directed to *Thomas Lord Vicount Wentworth*, and other the Commissioners therein named; whereby, among other things, Power and Authority is committed to them to hear and determine all Offences and Misdemeanors, Suits, Debates, Controversies and Demands, Causes, Things and Matters whatsoever therein contained, and within certain Precincts in those *Northern* parts therein specified.

Among other Matters in the said *Instructions*, it is directed, That the said *President*, and others therein appointed, shall hear and determine, according to the Course of Proceedings in the *Star-Chamber*, divers Offences, Deceits and Falsities, whether the same be provided for by Act of Parliament, or not; so that the Fines imposed be not less than by Act or Acts of Parliament are appointed.

The said *President*, and others therein appointed, have Power to Examine, Hear, and Determine, according to the Course of Proceedings in the Court of *Chancery*, all manner of Complaints for any Matter within the said Precincts; as well concerning Lands, Tenements, and Hereditaments, either Free-hold, Customary, or Copyhold, as Leases and other things therein mentioned; and to stay Proceedings in the Courts of Common-Law by Injunction, or otherwise, by all ways and means, as is used in the Courts of *Chancery*.

And that no Prohibition be granted at all, but in Cases where the *President* and *Council* shall exceed the Limits of the said *Instructions*: And that if any Writ of *Habeas Corpus* be granted, the Party be not discharged till the Party perform the Decree and Order of the said Council.

Afterwards, upon the 24th of *March* 1640, the said Lord Vicount *Wentworth*, then Earl of *Strafford*, and Lord-Lieutenant of *Ireland*, being Impeached in Parliament, one Article was, his *procuring the said Commission to enlarge his Power, &c.* And the first thing given in Evidence of this Charge was the Commission granted to the said Earl, dated

dated 21 *Martii* 8 *Car.* and the 19th *Instruction* authorizing him to hear and determine according to the course of Proceedings in the *Star-Chamber*, and to impose Fines, &c. so as they be not less than by the Act of Parliament is provided. The 23d *Instruction* was also read, whereby Power is given by Injunction to stay Proceedings in any Court of Common Law: and the 28th *Instruction*, whereby Power is given to send the Serjeant at Arms, and attach in any part of the Realm: and the 29th *Instruction*, wherein it is expressed, That no Prohibition be granted in the Courts of *Westminster* to stay Proceedings in the Court at *York*, but in Cases where the Court of the *President* shall exceed the King's *Instructions*; and if any *Habeas Corpus* shall be sued forth for not performing the Order of that Court, the Party committed not to be discharged so long as such Orders shall stand in force: and if any Fine be thereupon estreated, the *Treasurer* and *Barons* of the *Exchequer* to discharge it. Then they descended to produce Testimony concerning the Earl sending a Process actually before those Clauses were granted, and procuring the Clauses to be supplied when he found the Defect.

The first Witness did testify, That his Father was arrested in *London* by a Serjeant at Arms in *Novemb.* 1632, and was kept eighteen weeks, and conceiving it to be out of the *Instructions*, did appeal to the *Council-Table*; That the Earl of *Strafford* being present, fell on his Knees, and besought the King, That if his Instructions might not be so good as to bring in a Delinquent that had affronted the Court, if by stepping over the Water he should go beyond the Precinct of it, he might leave that Service, and lay his Bones in his own Cottage.

Another Witness did also testify the said Arrest and Imprisonment.

As to the matter of *Prohibition*,

A Witness was produced in the Case between *Musgrave* and *Vaux*, who said, That notice being given that a *Prohibition* was procured by *Vaux*, and an *Affidavit* made that the same was served; a Warrant was directed to the *Purfevant* to arrest the Party that procured it; who being arrested, and rescued, another Warrant was directed for the bringing of the Rescuers from *London*; and they were accordingly brought to *York*, and there imprisoned, and an Information was exhibited against them by Sir *George Ratcliff*, then the King's Attorney at *York*. This matter of *Prohibition* was referred to Mr. Justice *Hutton* and Sir *Robert Heath*, by the Consent of the Parties that were in Suit at *York*: but the Lord President being acquainted with it, the Reference went not on that Term, but stayed till the President's pleasure was known. The said Witness deposeth, That the Lord President did further say, That whosoever brought a *Prohibition* there, he would lay him by the heels. And that as touching the Reference, his Lordship said, It was a Cause that concerned the Jurisdiction of the Court of *York*, and no private Man shall end it; he would try the Jurisdiction, and would go to *London* and acquaint the Judges with it, and if they remanded the Cause back again, so; if not, he would appeal to the King in it. That the Lord President and Judges had several Meetings, but could not agree. And the Judges speaking some things concerning the *Prohibition* granted to *Vaux*: the Lord President replied, he should not be in *England*, but he would have his body, or words to that purpose. Then a Councillor at Law was produced, who testified that Judge *Hutton* acquainted him, that the Lord President was angry with

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with him for granting Prohibitions; which the Judge spake with a great deal of Passion, to see things carried in that manner; and did further testify, That understanding the Lord *President* was angry with him the *Deponent* for moving for Prohibitions, he went to wait upon his Lordship, who said unto him, I have nothing to say to you, you are one that oppose me, but for the present I have eased you of the Office of *Justice of the Peace*, so you need not trouble your self with that.

That afterwards his Lordship met the *Deponent* in *London*, who said unto him, I command you not to depart the Town; and applying himself afterwards to his Lordship to know his Pleasure, and withal making great Friends, all that he could understand by others was, That he was one that did oppose his Lordship; and the Witnesses did conceive that the Fault that he had committed, was, for not paying the *Knighthood-money* in *Yorkshire*, or for moving for Prohibitions, which latter did oppose the Authority and Power of the Court of *York*. And that after 12 or 14 days stay in Town, by mediation of a Friend, he got leave to go into the Country, and then he paid the *Knighthood-money*. And that after this, the *Deponent* durst not adventure to move for a Prohibition, nor any that had to do with him in those parts durst retain him till of very late, for he knew very well the price of my Lord of *Strafford's* Displeasure: And he further deposed, that he was sent for by a *Pursevant* to attend his Lordship at *York*, who told him, There was an Accusation against him, but they that laid it were not come to Town, and therefore he must attend, and that they were his Betters. That after eight days custody in the *Pursevant's* hands, he was brought to the *Council-Table*, and his Lordship sitting at the upper end, commanded him to kneel as a Delinquent; and in his kneeling, his Lordship was offended, in that he staid no longer in that posture; and then he understood the Matter to be for speaking some words at the Sessions in Defence of his Client, about the Traversing of an Indictment; the Question being, *Whether a bare Indictment were Evidence to the Petty Jury?* He, the *Deponent* said, It was no Evidence, and he desired to appeal to the Judges. Whereupon his Lordship was pleased to say, That he would teach him to know, there were other Men for him to appeal unto, (*viz.*) the *President* and the Council. Whereupon he was put out, and Directions sent that he must find Sureties, and make publick Submission at the Sessions for saying these words; which he did accordingly. And all this he conceived originally grew, for that he did oppose the Jurisdiction of the Court of *York*, and not for any the Causes pretended.

The other Branches of this Article were waved.

To this he answereth.

First; The Instructions granted 21 Mar. 8. Car. were not procured by him.

Secondly; The Commission and Instructions to the *President*, and Council of *York*, are of course renewed upon the death of any of the Council of the Fee in Ordinary. And Sir *Arthur Ingram* going out, and Sir *John Melton* succeeding, those Instructions were thereupon renewed. And as to the execution of the said Commission, from the date thereof to this hour, the Defendant did never one Act, or staid

staid one minute as *President* of the Council of *York*, the Commission was granted 21 Mar. 8 Car. and he went towards *Ireland* in July following.

8 Caroli.

At the first Institution of that Court, it had both a *Star-Chamber* and *Chancery* Power, as will appear by all the Instructions before that time; and if there be one Error in a Judge giving a Sentence, otherwise than a Man of better Understanding conceives reason for, there is no cause it should be heightened to a *Treason*, to take from him his Life, and Honour, and all he hath, meerly because he was not so wise a Man as he might have bin, nor so understanding as another. If this be pressed in Judges, he thinks few Judges would serve; and for his part, he confesseth, he had rather go to his Cottage, than be upon these Terms. The Sentence against Sir *Conyers Darcy* was just, and he complained not of it; and for the Sentence against Sir *John Bouchier*, the Defendent was not at all acquainted with it, being then in *Ireland*. But these two Matters are not insisted upon, yet it may be from hence observed, with what uncertainty Men may speak, who do inform in such Cases. As to the first Witness, testifying his Father's Commitment at *London*, and Appeal to the Council, he saith, That was not in his Charge; and as to the Prohibition granted in the Case of *Vaux* against *Musgrave*, he says, That also was out of his Charge, and he cannot say any thing to it but by way of Divination; and therefore he conceives that it cannot be able to convince any Man of *High Treason*, hardly of a *Trespass*; and why the enlarging of a Jurisdiction should be heightened to a *Treason*, he doth appeal to their Lordships Nobleness, Justice, and Honour, to consider; for he thinks none are in that place of Judicature, but they will desire to enlarge their Jurisdiction as far as in Reason and Justice they may; and it is a chaste Ambition, if rightly placed, to have as much power as may be, that there may be power to do the more good in the place where a Man serves.

As to the Witness, who said, He the Deponent commanded his stay in *London*, he hath nothing to say to him of exception, but that he speaks to nothing in the Charge; the Defendent being charged with the Execution of the Commission, 8 and 13 Car. and what the Deponent speaks of, is precedent in time; besides, his Deposition is by hearsay from Mr. Justice *Hutton*.

Then he produced a Witness, who proved that he began his Journey into *Ireland* the 8th of July, 1633, and another Witness, That since the date of the new Commission, he never sat as President of the North in any Cause whatsoever; and that he was in *Ireland* when the Commission 13 Car. was renewed.

And so he concluded his Defence, saying, That he was charged only with procuring and executing that Commission, both which he denies.

For Reply, the Committee desired it might be observed, That one of the Witnesses did speak particularly of the occasion of enlarging the Commission upon the Arrest of his Father; the President falling upon his Knees, and desiring his Majesty to enlarge his Power, or that he might have leave to go home and lay his Bones in his own Cottage. And he grew so high a little before the renewing of the Commission, that he said, He would lay them by the Heels who brought the King's

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Writ. Whereupon the Council were so awed, that they durst not demand Justice: So that the procuring a Renovation of this Commission, suited most to his Design.

Seeing the Reader is now upon the Commission and Instructions of the Lord President and Council in the North, take the Opinion and Judgment of Mr. *Edward Hyde*, a Member of the *House of Commons*, in a Speech made by him to the *House of Lords* concerning this Court, Anno 1640, which we the rather mention, because he was one that shewed his Loyalty to the King, by being with him at *Oxford*, and other places in time of War; whose Expressions may make deep Impressions upon many, he being afterwards made by the King, Lord Chancellor of *England*.

My Lords,

I Am commanded (said he) by the Knights, Citizens, and Burgesses of the *House of Commons*, to present to your Lordships a great crying Grievance; which though it be complained of in the present Pressures but by the Northern Parts, yet by the Logick and Consequence of it, it is the Grievance of the whole Kingdom. The Court of the Presidents, and Council of the North, or as it is more usually called, the Court of *York*, which by the Spirit and Ambition of the Ministers, trusted there, or by the natural Inclination of Courts to enlarge their own Power and Jurisdiction, hath so prodigiously broken down the Banks of the first Channel in which it ran, as hath almost overwhelmed the Country, under the Sea of Arbitrary Power, and involved the People in a Labyrinth of Distemper, Oppression, and Poverty.

To remember your Lordships of the Foundation and Erecting this Court, and of the Progress and Growth of it, will not be unacceptable.

Your Lordships well know, That upon the suppression of all Religious Houses to such a value, in the 27th Year of *Hen. 8.* from that time to the 30th Year of that King's Reign, many (not fewer than six) Insurrections and Rebellions were made in the Northern Parts, under pretence of that Quarrel, most of them under the command of some eminent Person of that Country; the which being quieted before the end of the 30th Year, that Great King well knowing his own Mind, and what he meant to do with the great Houses of Religion; in the Year following, for prevention of any Inconvenience that might ensue to him upon such Distemper, in the 31st Year of his Reign, granted a Commission to the Bishop of *Landaff*, the first President, and others, for the quiet Government of the County of *York*, *Northumberland*, *Cumberland*, and *Westmorland*, the Bishoprick of *Durham*, the County of the Cities of *York*, *Kingston upon Hull*, and *Newcastle upon Tyne*. But, my Lords, this Commission was no other than a Commission of Oyer and Terminer, only it had a Clause at the end of it for the hearing of all Causes, Real and Personal. *Quando ambæ partes, vel altera pars, gravata paupertate fuerit. Quod ita ut quomodo jus suum secundum Legem Regni nostri aliter persequi non possit.* Which Clause, how illegal soever, (for that it is illegal and void in Law, little doubt can be made) yet whether they exercised that

that part of the Commission at all, or so sparingly exercised it, that poor People found ease and benefit by it, I know not, for at that time I find no complaint against that Court. And in the first Year of King James, a Commission was granted to the Lord Sheffield, which varied not from the former, only it had reference to Instructions which should be sent, but we find none sent. In June, in the seventh Year of the Reign of King James, a new Commission was granted to the said Lord Sheffield, very differing from all that went before; it being left out, That they should enquire, *Per Sacramentum bonorum & legalium hominum*, and to hear and determine, *secundum Leges Angliæ*, relation being had only to the Instructions, which were the first Instructions which we can find were sent thither.

I shall not trouble your Lordships with these, or any other Instructions, but descend to the present Instructions and Commissions under which that part of the Kingdom groans and languisheth, since the Lord Strafford came to that Government, which was in December, 4. Car. And since the Commission hath bin three several times renewed, in the 5th Year in March, in the 8th in November, in the 13th Year of his Majesty's Reign. Into that Commission of the 8th and 13th, a new Clause was inserted for the granting, sequestering, and establishing Possessions, according to Instructions crowded in a mass of new exorbitant and intolerable Power.

Though our Complaint be against this Commission it self, and against the whole Body of those Instructions, I shall not trouble your Lordships with the 9th Instruction, though it be but short; which introduceth that *Miseram servitutem, ubi jus est vagum & incognitum*, by requiring an Obedience to such Ordinances and Determinations, as be or shall be made by the Council-Table, or High-Commission Court. A Grievance, my Lords, howsoever *Consuetudo & peccatum claritas nobilitaverit hanc culpam*, of so transcendent a Nature, that your Lordships noble Justice will provide a Remedy for it, with no less care, than you would rescue the Life and Blood of the Common-Wealth.

Read the 19, 22, 23, 24, 29, and 30, I will not trouble your Lordships with reading more, there being among them in the whole fifty eight Instructions, scarce one that is not against or besides the Law:

Whether his Majesty may cantonize out a part of his Kingdom to be tried by Commission, though according to the Rules of Law, since the whole Kingdom is under the Laws and Government of the Courts established at *Westminster*; And by this reason the several parts of the Kingdom may be deprived of that Privilege, will not be now the Question.

His Majesty cannot by Commission erect a new Court of Chancery, or a Proceeding according to the Rules of the *Star-Chamber*, is most clear to all who have read *Magna Charta*; which allowed no Proceedings, *Nisi per legale Judicium Parium & per Legem Terræ*; for our Court of Chancery here, by long usage and prescription, is grown to be, as it were, *Lex Terræ*. But, my Lords, the 30th Instruction goes further, and erects such an Empire, such a Dominion, as shall be liable to no Controul.

The Courts of *Westminster*, my Lords, have superintendences over all Inferior Courts, to regulate their Jurisdictions if they

exceed

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‘exceed their Limits, as to hold Plea of greater value, or the like.
 ‘In the Exercise of Jurisdiction, the Judges are sworn to grant and
 ‘send Prohibitions: But to stop the granting of these Prohibitions, or
 ‘to neglect them when they are granted, is the greatest and boldest
 ‘scorn of the Law, and the Law-Makers, that can be imagined.’

‘And whosoever gave directions for these stout Instructions, might
 ‘have remembred, that no longer since than *Michaelmas*, in the se-
 ‘venth Year of *Eliz. Rot.* 31. an Attachment was granted against the
 ‘Arch-Bishop of *York*, then President of that Council, for forbidding
 ‘the Goaler of *York* to deliver one *Lambert* his Prisoner, who was
 ‘sent for by a *Habeas Corpus* from the *King’s Bench*.

‘And can such a Court as this, my Lords, deserve to live? What
 ‘a compendious abridgment hath *York* gotten of all the Courts in
 ‘*Westminster-Hall*? Whatsoever falls within the Cognizance or Ju-
 ‘risdiction of either Courts here, is compleatly determinable within
 ‘that one Court at *York*, besides the Power it hath with the Eccle-
 ‘siastical and High-Commission Courts.

‘What have the good Northern People done, that they only must
 ‘be disfranchised of all their Privileges by *Magna Charta*, and the
 ‘*Petition of Right*? For to what purpose serve these Statutes, if
 ‘they may be Fined and Imprisoned without Law, according to the
 ‘Discretion of the Commissioners? What have they done, that they
 ‘(that they alone) of all the People of this happy Island must be dis-
 ‘inherited of their Birth-Right, of their Inheritance? For Prohibi-
 ‘tions, Writs of *Habeas Corpus*, Writs of *Error*, are the Birth-right,
 ‘the Inheritance of the Subjects.

‘Your Lordships remember the Directions I mention, that by
 ‘*Magna Charta* all Proceedings shall be *per legale Judicium Parium*,
 ‘& *per Legem Terræ*.

‘Now these Jurisdictions tell you, you shall proceed according to
 ‘your discretion, *secundum sanas Discretiones*, that is, you shall do
 ‘what you please; only that we may not suspect this Discretion will
 ‘be gentler and kinder to us than the Law, special provision is made
 ‘in the Instructions, That no Fine, no Punishment shall be less than
 ‘by the Law is appointed, by no means, but as much greater as your
 ‘Discretion shall think fit. And indeed in this Improvement, we
 ‘find Arbitrary Courts are very pregnant; if the Law require my
 ‘good Behaviour, this Discretion makes me close Prisoner; if the
 ‘Law sets me upon the Pillory, this Discretion appoints me to leave
 ‘my Ears there. To proceed according to Discretion, is to proceed
 ‘according to Law, which is *summa Discretio*, but not according to
 ‘their private Conceit or Affection: For *Talis Discretio* (saith the
 ‘Law) *Discretionem Confundit*: And such a Confusion hath this
 ‘Discretion in these Instructions produced, as if Discretion were
 ‘only to act with Rage and Fury. No Inconvenience, no Mischief,
 ‘no Disgrace, that the malice, or insolence, or curiosity of these
 ‘Commissioners had a mind to bring upon that People, but through
 ‘the Latitude and Power of this Discretion the poor People hath
 ‘felt; this Discretion hath bin the Quicksand which hath swallowed
 ‘up their Property, their Liberty: I beseech your Lordships rescue
 ‘them from this Discretion.

‘Truly, my Lords, these vexed worn People of the North, are
 ‘not Suitors to your Lordships to regulate this Court, or to reform

‘the

the Judges of it, but for extirpating these Judges, and the utter abolishing this Court; they are of *Cato's* mind, who would not submit to *Cæsar* for his Life, saying, He would not be beholden to a Tyrant for injustice; for it was injustice in him to take upon him to save a Man's Life, over whom he had no Power.

And afterwards the King gave his consent, that this Court be absolutely taken away by Act of Parliament.

At the latter end of the month of *March* this Year, an Information was preferred in the Court of *Star-Chamber* by *William Noy*, his Majesty's then Attorney General, against *John Overman* and fifteen other *Soap-makers* Defendants, charging them with several Offences, contrary to divers *Letters Patents* and *Proclamations*, touching the making and uttering Soap, and using the Trade of Soap-makers, and other Offences in the said Information mentioned. Whereunto the Defendants did Plead and Demur as to part, and answer to the other part of the said Information: And the said Plea and Demurrer being over-ruled, for that the Particulars therein insisted upon, would appear more fully after Answer and Proof: Therefore the Defendants were ordered to answer without prejudice, and were to be admitted to such Exceptions to the said Information, and advantages of the matter of the Plea and Demurrer upon the Hearing, as shall be material; and accordingly the Defendants did put in their Answer, and did set forth several Acts of *Parliament*, *Letters-Patents*, *Charters*, *Customs*, and *Acts* of Common Council of the City of *London*, and other Matters material conducing to their Defence, and in conclusion pleaded *not guilty*.

That Sir *Robert Berkley*, then being one of the Justices of the Court of *King's Bench*, the 30th of *March*, in the eighth Year of his Majesty's then Reign, 1632, upon an Order of Reference to him and others, by the said Court of *Star-Chamber*, to consider of the impertinency of the said Answers, did certify the said Court of *Star-Chamber*, That the whole Answers, excepting four words, and ten last lines, should be expunged, leaving thereby no more substance of the said Answers than the Plea of, *Not Guilty*.

And after upon a Reference to him and others, by Order of the said Court of the impertinency of the Interrogatories and Depositions of Witnesses taken on the Defendants part, in the same Cause, the said Sir *R. B.* the 2d of *May*, in the 8th Year of his then Majesty's Reign, certified that 39 of the said Interrogatories, and the Depositions upon them taken, should be suppressed, and were expunged and suppressed according to the said Certificate.

Both which said Certificates were said to be contrary to Law and Justice, and contrary to his the said *R. B.*'s own knowledge, and contrary to the said former Order, whereby the advantages were saved to the Defendants as aforesaid; and by reason thereof the said *John Overman*, and the said other fifteen Defendants, were Sentenced in the said Court of *Star-Chamber*, to be committed to the *Fleet*, and disabled from using their Trade of *Soap-makers*, and one of them Fined in the sum of 1500 *l.* two of them in 1000 *l.* apiece, four of them in a thousand Marks apiece; which Fines were estreated into the *Exchequer* without any mitigation.

And the said Defendants, according to the said Sentence, were Imprisoned, and deprived of their Trade and Livelihood, tending to the

8 *Caroli.*

A Plea and Demurrer over-ruled, and an Answer expunged in *Star-Chamber* all but four words and ten last lines.

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the utter ruin of the said Defendents, and to the overthrow of *Free Trade*, and contrary to the *Liberty of Subjects*.

The said Judge being afterwards Impeached by the House of Commons, in the *Lords House*, for this, and for his Opinion in the case of Shipmony, and other matters laid to his charge; submitted to a Fine of 10000 *l.* so not standing to a Tryal upon the Impeachment, he made no defence, which if he had done, we should here have done him right in mentioning the same.

Let us return to the Affairs in *Germany*, to be informed what Progress hath been made in the *Embassy* to the King of *Sweden*, for the advantage of the Prince *Electo*r *Palatine*.

Towards the middle of *July* the Ambassador had his last Audience of the King of *Sweden*, about the restauration of the *Palsgrave* to his Dominions in the *Palatinate*, at which time the King of *Sweden* discoursed of Proposals to this Effect, (if the Copy I go by be right.)

1. That the *Palsgrave* should hold his Country as a Donative of the King of *Sweden*.
2. That he should make no Martial Levies without the Swedes consent.
3. That during this War he should furnish the Swedes with so many thousand Men upon his own Pay.
4. That two of his chiefest Towns should stand Cautionaries for the performing of Covenants.
5. That he should make no League nor Article with any other Prince without the Swedes consent.

The Ambassador being moved at these Proposals, as too hard and dishonourable for the Prince *Electo*r *Palatine* to accept of, uttered some words to the King of *Sweden* to this purpose.

That he hoped the great Success which that King had in *Germany*, and lately at the Battle at *Lipswick*, did not heighten him in making these Demands, so as to forget the grounds of his Declaration, to restore the Liberty of *Germany*, or to forget his Master the King of Great Britain, who had sent him the Assistance of six thousand Men under the conduct of the *Marquess of Hamilton*, and the great Charge the King his Master was at in the raising, arming, transporting, and maintaining of those Men, without any Conditions of Retribution from that King, and wherein his Master had expended above an hundred thousand pounds.

The King of *Sweden* huff'd at this Discourse, yet at this time conquered the greatness of his Passion, but fell a quarrelling with the Ambassador, as if he had prevaricated from his Instructions, and that by his discourse on some Points he seem'd to be *Hispanized*, as if his Design tended more in favour of *Spain* than *Germany*. This occasioned a smart Reply from the Ambassador to that King, who when he heard it, fell into a great Fury, stamping up and down in a Rage and Discomposure of Mind, and so they parted.

But afterwards, on *July* 19, that King sent his Secretary to the Ambassador,

In *July* the Ambassador had his last Audience.

The Ambassador's Answer to the King of *Sweden* concerning his unreasonable Demands as to the Prince *Electo*r *Palatine*:

ambassador, who told him the King his Master could not agree to the Conditions propounded by him. The King of Sweden urging a Defensive League, and for a limited time: But the Ambassador propounded a League only of Assistance, and the time indefinite and arbitrary.

Of these Proceedings the Ambassador gave an Account to Secretary Cook, to communicate to the King his Master, the King of Sweden's abrupt breaking off this Treaty in this manner, as is expressed in the Letter to Mr. Secretary Cook.

'That this King was not so prompt in breaking off the Treaty, and offering me his Recreditive, as he is now slow in performing the same, and giving me no Answer in writing to my Memorial. I have often pressed my Departure, but am still held up with good words and Excuses; and finding he is not willing I should yet go from his Camp, in that he conceives it may be prejudicial to his Affairs, having often prayed me to stay. I have solicited for a Pass for my Secretary to go for England, which he promised me at first, but delayeth it from day to day, and so hath kept him up there ten days. By what I hear, it should seem he hath bin too rash in breaking off the Treaty, and would fain set it on foot again; for afar off (not directly) so much hath been intimated unto me; and some of this King's Ministers have been speaking of new Articles, but I not hearkning thereunto, hear no more of it, being resolved whatsoever future Overture shall be made unto me, not to entertain any, but civilly to excuse the same, until I receive his Majesty's Pleasure unto this Dispatch; and I do intend to transport my self from the King's Camp towards Strasburg as soon as I can possibly disengage my self from him, and there to make my Residence, judging it to be the fittest place; for the Armies cannot long stay in these parts, and I know not where they can live, but in the Land of Wirtenburgh and Alsace, all other Countries being already spoiled, so as I shall be near this King; if there should be any occasion for my return towards him if recalled. I am upon the Rhine, and may return either through France or the Low Countries as his Majesty shall direct.

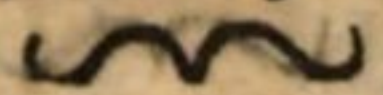
'Both Armies being fast in their Works, keep themselves within their Retrenchments, without attempting any thing one upon the other, but in little Skirmishes, sometimes upon the Forragers, sometimes upon the Guards. But in the end he ordered Col. Dubartle to go and Petard the Town of Fredstate, where there was a Garrison, and burn the same, it being a Magazine of Corn for the Enemy, and the Post between Regenberg and their Camp. At break of day, being arrived, he put two Petars to the Ports, but they failing, he put Ladders to the Walls, scaled them, and so entred the Town. He found few Souldiers there, those that were, were in their Beds; so as finding no resistance, he set fire on the Town in seven or eight several places, burnt their Magazines, wherein were great quantities of Corn and Meal, and so retired.

'The same morning, being the 30th instant, this King had Advertisement that certain Troops were marched out of the Enemies Camp; he apprehending their intent was to cut off Dubartle's Retreat, marches with a Party of 300 Musquetiers, and 4000 Horse, to secure the same; upon the way he understood that Serjeant Major General Sparre was near thereabouts with thirteen Companies of Croats, and 500 Foot; the King thereupon advances with some Troops, Sparre retires with

8 Caroli.

Sent by Monsieur Curtius, together with a Dispatch bearing date the 9th of August.

An. 1632.



the Infantry and some Troops of his Horse, and under favour thereof gives a *brave Salvo* with his Musquetiers upon four Troops of Horse led on by Col. *Strife*, and upon the King's Foot, where was killed on the King's side Col. *Rise* who commanded the Foot, a Gentleman of the King's Chamber, one of his Pages, and divers of his Musquetiers. On the Enemies side, it is esteemed that there were two hundred left dead upon the place, and as many taken Prisoners, among which there was Serjeant Major General *Sparre*, Lieut. Col. *Gorden*, and Capt. *Leslie* Scotsmen, two Lieutenants and one Ensign, all which were that night brought to the King's Camp, with one Cornet and two Colonels. The King hath of late proposed to the Deputies of *Francfort*, this Town, *Ulme*, *Strasburg*, to which he would also have joined the Country of *Wirtemberg*, to take into consideration the present state of the War, that amongst themselves they would think of raising Contributions, the ways and means how to pay his Armies, which he hath declared unto them (considering the present strength of the Enemy) must not be less than three Armies, each one consisting of 27000 Foot and 4000 Horse. How welcome this Proposition is to them, your Honour may well judge, for the Deputy of *Strasburg*, excusing that Town, in regard of their *Neutrality* with other Princes, and Situation, which should they not keep their Country would be burnt and spoiled: This King replied publicly in the face of the whole Court, that they had proceeded so coldly in the Cause of their Religion and Liberty, that they deserved not only their Country, but their Town to be burnt and spoiled.

This King expects within a few days an Ambassador from the French King, it is thought it is upon the old ground of *Neutrality* for *Bavaria*, and the Catholic League, but my Opinion is, *Bavaria* will not upon any Terms fall off from his new Alliances with the House of *Austria*, though I understand he is tampering and treating underhand with the *Evangelics*, giving them assurance of his Affection towards them, and his Resolution to stand for the Preservation of the Liberty of *Germany*, which is the only Reason that induceth me to apprehend, that this Embassie from *France* may be to draw the *Evangelics* and that Duke to a better understanding, and upon the old ground of removing the Empire from the House of *Austria*, which if it be, your Honour may be assured the *States* have their parts therein also.

The Elector of *Saxe* hath sent, or permitted four Regiments of Horse and Foot, to join themselves with the Army of *William* Duke of *Saxe-Wismar*, they are joined to him, and are at *Sweinfurt*. The Chancellor with his Army at *Wortzberg*, and the Landgrave of *Hesse* joined to him. This King presses me much to stay with him until his Armies be joined; which I cannot well refuse, though I desire much to be gone from hence; for Men die fast both in the Town and Camp: I cannot tell what to make of the Business between this King and the Elector of *Saxe*; for notwithstanding he is marched into *Silesia*, as the Letters from *Lipsick* say this day, and the last Troops are joined, &c. This King told *Sparre* upon the taking of him Prisoner, that he had been much imploied between *Fridland* and *Sax*; that he knew that which imported him both in his Honour and Safety, that if he would not discover unto him truly all things, he would pistol him upon the place. Unto which he made him this Answer, That he

would

would discover as much as he could do with his Honour.

The third Instant *Camerarius* brought me the Recreditive from this King, the which I have herewith sent your Honour. It is not absolutely in the manner he told me it would be, when he brought me this King's Verbal Resolutions concerning the Treaty, in Answer to my last Memorial. It is usual with this King to repent himself when the Blow is given; for he hath often told me, since the Occasion at *Munchen*, speaking with regret of that Proceeding, That he would give all he had to be Master of his Passions; but that when he begins but to be moved, he hath something rises in his Brain, that makes him forget what he saith or doth; that this he finds in himself, and the Inconveniencies that grow thereof, as soon as he is posed again; but yet he cannot get it mastered, though he hath often designed the same; and therefore he hopes God and all the World will forgive him.

Camerarius told me farther in this King's Name, That he desired me to reside with him, for that if any overture of Peace should be set on foot between him and his Enemies, he had rather employ his Majesty's Ambassador than any, and me in particular. This King hath that imperfection, that for the present end he can put himself into any shape. This Proposition I knew not well how to refuse, since his Recreditive is not absolute, but mixt; and that I know not upon what terms stands his Majesty's other Treaties of Restitution, my self judging it necessary for his Majesty's Service, to keep this King in Appetite, and not to be loose of him, until I receive answer by this Bearer to this Dispatch; and therefore I accepted thereof with all civility and respect, having regard to your Honours Orders, which I received by the Dispatch which Sir *Jacob Ashley* brought; though I am still of Opinion, That this King intends not Peace but in case of necessity; but that he seeing that the residing of his Majesty's Ambassador by him in this Conjunction, is a countenancing of his Affairs; so his going from him consequently will be a discountenancing of them; and that this King will never part with what he holds in the *Palatinate*, though it may be counsellable, if a General Treaty should ensue, to keep fair with him that he do no hurt; and so from them that have had their hands in oppressing of that unfortunate Prince, to endeavour a Restitution, whilst there is any hope from him or his.

There was two days since taken Prisoner one Capt. *Leslie*, who serves the Emperor in *Fridland's* Army; he tells me, That *Saxe* is fallen off from the Agreement made between him and *Fridland*; that there hath bin sent by *Fridland* divers Regiments out of his Army to join with *Don Baltazar*, who commands the Army in *Bohemia*, with order to fall into the *Hereditary Countries* of the Elector of *Saxe*: He saith boasting, That *Fridland* and *Bavaria's* Armies lying about us here, are 80000 Men; that they expect out of *Bohemia*, *Austria*, and the other *Hereditary Countries* of the Emperor 30000 more that are now levying; but withal privately confesseth, That in their Army there is great want of Bread, and that if a Blow should be given to the Imperialists, this King having possessed himself of the Rivers and Passes, *Vienna* will run a hazard, for that they have upon this occasion of *Fridland's* Expedition, put up their late Effort; so as it is probable, whosoever God will give the mastery unto in

this

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this present Occasion (if it comes to Blows) will have the Affairs of *Germany* in his power; and should this King prevail, it will cause great Revolutions, which before this Bearer can return unto me, apparently may be more clearly seen into.

Since *Leslie* was with me, one brought me a Letter written by the Elector of *Saxe* to the Marquess of *Cullinback*, wherein he adviseth him to a Peace, for that the Empire cannot longer suffer War without total subversion: So as of that Duke's Proceeding, I know not what to judge: This *Cullinback* is of the House of *Brandenburgh*, and at present with this King. I have long since written for Blanks, to which you have hitherto made no Answer; I conceive them to be of use, especially if the Affairs tend to Accommodation. *Fridland* spoke with much affection of his Majesty, and cast out words as if he would be a Friend (if he were fought unto in the restitution of the *Palatinate*) as Affairs may be. His Majesty may have cause to make use of him. I purpose to see him; if the Blanks I have so long since written for, were by me, I could the better introduce myself by one of them. The Jealousies remain still between *Fridland* and *Bavaria*; And if the *French* shall again engage themselves with that Duke of *Fridland*, it may be of use.

Norremburgh, 19 Aug.
1632.

Your Honours, &c.

The beginning of this Month of *August*, his Majesty of *England* writ this Letter to the Marquess of *Hamilton*.

JAMES,

The King's
Letter to M.
Hamilton to
make an ex-
cuse and to
come for Eng-
land.

I Have received three Letters from you by James Lesley, about the 25th of July, all which I assure you have given me very good satisfaction, as well for your right understanding of Affairs in general, as to give me a light how to direct you in particular, which at this time is the only subject of mine. One of two you must chuse, either to stay, or come away: For the first, it were very honourable to do (in the times of Action) if you had an Emptioiment; but neither having, or likely to have any hereafter, it were dulness, not patience, to stay any longer; yet it is fit to come off handsomly, neither shewing impatience nor discontentment (if may be); although I think you have cause for both: therefore I have commanded Henry Vane to propose a new Emptioiment for you; which tho' I think it will not take effect, yet it will shew there is no way unsought for to find you out an Emptioiment with the King of Sweden; it is, that you may be sent into the Palatinate, to assist the French with so many Men as my Contribution will maintain; which if it may be done, they promise me to put the Lower Palatinate in my hands. This, though I do not hold as Gospel, yet if this Design might be put in practice, it might certainly prove useful to my Affairs: This being denied, (as I think it will) you have no more to do, but to seek a fair Excuse to come hence, which will be best in my Opinion, upon the Conclusion of the Treaty between Sweden and Me: Or if any Rubs arise, that you might be sent to clear it with me.

So that upon the whole Matter my Judgment is, That if you cannot serve

serve me in the Palatinate, (as I have already said) the best way is, That you take the first civilexcuse to come home to

8 Caroli.

Oatlands, Aug. 1.
1632.

Your loving Cousin, and
faithful Friend,

CHARLES R.

POSTSCRIPT.

David Ramsey will (as I imagin) meet with you before you come hither, which if he do, I hope you will remember what I have said concerning him already.

The 24th of this Month, the Ambassador writ another Letter to Mr. Secretary Cook.

Norrenburgh, August 24.

THE 12th of this present, I dispatched my Secretary *Curtius* unto your Honour, by the way of *Hamburg*, the only Pass was then open; God grant he arrive safe; for two days after his departure, the Imperialists invested the same; He brings you the knowledge of the Affairs, and particularly how this King hath broken the Treaty. The 18th of this present, the King's Forces, under the Command of the Dukes of *Saxe, Wimar*, his Chancellor *Baneire*, and all his other Generals, joined themselves to the King, a Dutch mile and a half from this Town, the Imperialists not so much as making an offer to hinder the same.

A further Account by Sir Henry Vane of his Embassy.

Those Armies make in all 13000 Foot and 8000 Horse; this day they advanced within a Dutch mile and less of this Town, and are encamped between it and *Furth*, where I saw them in Battale; to the Eye they seem to be good Men: This King speaks, that to morrow he will encamp them near, approach the Imperialists Camp, and cannonade them out of their Trenches; but that is sooner said than done, and will be difficult to effect, though something will be done within these few days, the issue whereof I purpose to attend; and yet I am of Opinion, that neither Party will come to a formal Battel, but in case of a remarkable advantage.

The King of *Bohemia*, notwithstanding the breaking off the Treaty, seems to me to have more hope than ever, and to believe, that the King of *Sweden* will restore him his Country, (God grant he be not deceived) unless it be in such a manner, that it may not be per-adventure worthy of his acceptation; but he believing the same, I conceive it not to be my Part to undeceive him; and upon this occasion, I shall propose unto your Honour, what way in my Opinion will be best for his Majesty to take in the Negotiation of the *Palatine's* Interest, making judgment of the Affairs as now they are; for his Majesty to continue an Ambassador longer here, I assure my self his Majesty will not think fit. To desert him or his Affairs absolutely, I know his Majesty will never do it: Necessary and requisite it is to have an Agent resident with this King, to have an eye upon the

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‘ Affairs, and leave the King of *Bohemia* to treat for himself, since he
 ‘ hath so confident a Faith, that by him he shall have his Countries resto-
 ‘ red; for he hath told Marquess *Hamilton* and my self, within these
 ‘ few days, That he doubts not but to keep his Winter Quarters in
 ‘ *Heydelburgh*. And in this way his Majesty may contribute to him of
 ‘ his Bounty towards such an Accord, (if he shall approve thereof).

The King of *Great Britain* being by this time fully informed by his Ambassadors, and by the Marquess, of the Transaction of Affairs with the King of *Sweden*, and the little hopes of success, wrote this ensuing Letter to the King of *Sweden*.

CHARLES, &c. To the most Serene and Puissant Prince, our Brother, Cousin, and most dear Friend, *Gustavus Adolphus*, &c. Health and prosperous Success.

The King of
Great Britain
his Letter to
the King of
Sweden, recal-
ling his Am-
bassador.

Most Serene Prince, Brother, Cousin, and most dear Kinsman; We have very satisfactorily understood by our Letters, that you embrace our Friendship with singular fervency; and We also in like manner have not only, with the most imaginable Candor and Constancy made use of, but earnestly catch'd at all Opportunities; not solely for the promoting of the Common Cause, but principally to maintain and adorn your Dignity and Welfare by all possible means: Nor do We question but that your Serenity is sufficiently convinced of this Matter, and that not so much by the frequency of Our Letters, as by the good Offices which we have decreed, rather to accumulate upon, than repeat. Yet this upon your Account is not to be passed over in silence, That We have sent, as it were, out of our Bosom, the Marquess of *Hamilton*, Our intimate Kinsman, a famous Pledge of Our Love, with an intire Regiment, at Our own Charges, to the remote Parts of *Germany*, that he might devote himself to your Service; by the Report of which Supplies, not only your Enemies, who are variously distracted one among another, but the Princes also of your Associates, and Burgers, or Freemen, are kept and confirm'd in their Fidelity.

At length this last Embassy of Ratifying a League with you, which is thus ordered; that first of all, We should Act and Convene about an Auxiliary League for the recovery of Our Brother's Paternal Inheritance; and afterward, if need requires, of a Social One for the common Good and Safety; and this Method is most exactly prescribed in Our Letters of Credence, and Instructions to Our Ambassador *Henry Vane Knight*, one of Our Privy-Counsellors, and Chief Officer in Our Court, which he hath fully observed; nor did that Form which he received from Us signify any more, than that he should more fully explain this Our Opinion, That what seemed convenient in your Judgment, might be at last communicated, without expence of Time, Wherein your Serenity, as well as all good Men, have had sufficient experience beyond all Controversy: That We never made any Alteration, either as to the Nature of the League, nor concerning the Power of Our Ambassador; nor ever revoked any thing about which he once Convened; nor that We ever proceeded at any time dubiously or scrupulously, but ever constantly maintained and fulfilled those things which became a most Just Prince, most studious of your Welfare, a great lover

of

of our Brother, and finally the most Religious Propugnator of the Publick Good. But because it does not seem convenient in your Opinion to observe the way We have laid down, We leave it to your Prudence, and so at this present recalling Our Ambassador to other Offices, We wish you Health, and pray for your Felicity.

Your Serenities Good Brother and Cousin,
CHARLES R.

8 Caroli.

Upon the Ambassador's receipt of this Letter from his Master to the King of Sweden, requiring his Ambassador's Return, the Ambassador thought fit to write this ensuing Letter to the King, to excuse his not coming in Person to take his Leave.

S I R,

THe King having thought fit to call me home, and withal commanded me to convey this Letter to your Majesty, which is in answer to that you were pleas'd to write by my Secretary Curtius; It is not without a most sensible regret, that I am necessitated by express Order to undertake my Voiage forthwith, and hereby be depriv'd of the opportunity to kiss your Majesty's hands again, and deliver you the said Letter in person; your Majesty shall receive it, if you please, from the hands of the said Curtius, who being appointed by the King my Master to reside near your Majesty, to manage his Affairs; I beseech your Majesty to believe, that tho' the Commands of my King force me far from your Person, yet I shall ever be ready in the Design I have, to render you my most humble Service upon all occasions, and to preserve the Quality of,

Sir Hen Vane,
Ambassador,
writes to the
K. of Sweden.

Your Majesty's most humble and
most obedient Servant,
H. Vane.

Strasburg the 31 of Octob.
1632.

The Ambassador wrote a Letter also to the King of Bohemia, giving him notice, that his Master had recalled him home.

SIR,

By the return of my Secretary Curtius, I have received Order from the King to return to him with all diligence, and for the present to leave Germany. If this Revocation obstruct my continuance in your Majesty's Service in these Parts; yet I am confident that I shall still be Master of greater opportunities to employ my self at Court; where probably, I may be more capable of procuring your Majesty's desires, than I have bin hitherto; being near a Master who has a greater desire than ever not to abandon his former Resolutions to your advantage. Your Majesty may give an infallible conjecture thereof; that notwithstanding my being called home, he hath thought good to establish my said Secretary for the continuation of his Affairs with the King of Sweden; and to the end that your Majesty might have a more ample Information, I have ordered him to go directly to Mentz, to give you an account of the Transactions that have passed here in England, and to present my most humble excuse to you, that upon my positive directions which oblige me with all diligence to accelerate my return, I have dispensed with the going so far out of my way, resolving to take a shorter Cut through France, and to sail to England from Calais. In the interim, if your Majesty imagin, that it may conduce to your Service

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Service to lay any Commands upon me before I arrive in England, I have sent with the said Curtius a Courier, who will overtake me in the way, and will bring me your Majesty's absolute Resolutions. I do daily resolve with all the power I have to put them in execution, it being my design of persisting in the real resolution, of remaining,

Sir,

Your Majesty's most humble and
most obedient Servant,
H. Vane.

Strasburgh 31 Octob.
1632.

The Ambassador at his departure left these Instructions for Mr. Curtius his Majesty's Agent with the King of Sweden, according unto which he was to govern himself with that King and the King of Bohemia.

The Ambassa-
dor's Instru-
ctions to Mr.
Curtius.

1. The King of Sweden being now by the event of War in the Elector of Saxs Countries, or thereabouts, you are from hence to go to *Mentz* (it not being out of your way to the said King) there to attend his Majesty of Bohemia, and to give him all assurance of the continuation of his Majesty's love and affection towards him and his, howsoever the Treaty so long agitated betwixt the two Kings hath bin thought fit by the King of Sweden to be remitted till a more convenient time.

2. If you shall find that the King of Bohemia shall further press you upon particulars concerning the Treaty, you are to let him know, that the Colonels *Pebely* and *Kelbe* having been deputed from his Majesty to my Lord Ambassador the day before his coming from *Nuremberg* to confer with his Lordship upon that King's Affairs, in which Conference it was thought fit and necessary by them, that a motion should be made by his Lordship to the King of Great Britain, not to begin any further Treaty with the King of Sweden, or permit him to make any more Levies in his Dominions, until he should first consent and restore to him what he possessed of his in the *Palatinate*; His Lordship after some Conference with the said Deputies upon that Affair condescended to that motion, so he might be assured before his departure, that it was their Master's pleasure to send unto his Resident in England to second the same. Hereupon the said Deputies returned accordingly and declared unto his Lordship, that as soon as his Majesty should arrive at *Francfort*, he would dispatch an express into England with Orders to Sir Francis Nethersole to move it also; you are to signifie unto that King that upon your departure from thence, the said Express was not yet arrived.

3. And because new overtures of Treaty are made unto that King by the King of Sweden's Ministers, you are to enquire particularly what those are, and how they are entertained by his Majesty.

4. You are likewise to inform your self how far the French King hath an eye upon the Proceedings of the King of Sweden with the Town of *Strasburg* what they do now in the *Palatinate*, and what the French may contribute thereunto, and in particular concerning *Frankendal*, what designs or aims either of the said Princes have upon that Town, and whether the Spaniards might not be induced to consign the same into his Majesty of Great Britain's or the King of Bohemia's hand.

5. Lastly, That you use all possible industry to discover those who
for

for the time past have endeavoured, or for the future shall endeavour either by Letters or otherwise to do ill Offices, or work misunderstandings between the two Kings of *Great Britain* and *Sweden*, with whom it is most necessary for the good of the Publick, there should be a strict and perfect Intelligence.

8 *Caroli.*

The King of *Bohemia* having great confidence in the King of *Sweden*'s Assistance, for his Restoration, writes his mind frankly to the Ambassador from *Lec Hausen* near *Auspurg* to this effect.

I Received your Letter after I had passed the River *Lech*. I do not question but you have already understood the Passages here, that *Tilly* and *Altrin* have been wounded; The Duke of *Bavaria* has abandoned *Newburgh*, and retired to *Ingoldstadt*. I will now give you an Account of the Surrender of *Auspurg*; The Garrison quitted the place this Afternoon, being 3500 strong, and the King's Forces are entered; himself hath taken a Survey of the Town without the Walls, and to morrow will make his Entrance. So all things succeed according to desire. I am very glad of the hopes you give me that I shall be so happy as to see you. I presume the season will keep you here at *Frankfurt* a long time. For my own part I have no cause to complain; for the King is still of a very good humour, and continues the testimony of his great affection for me and my Concerns. I do not press him to any thing as yet, I hope all will go well; I shall not swell this Letter to any greater bulk, but only to assure you that I shall ever remain

The King of *Bohemia* his Letter to the Ambassador.

From *Lec-Hausen*
near *Auspurg*.

Your most affectionate
Friend,

Frederic.

Duke *William* of *Saxon Weymour*, Lieutenant General to the King of *Sweden*, was sent to by that King to take the *English* and *Scotish* Forces of the Marquess of *Hamilton*'s Army under his Conduct, who were by that Duke reduced to two Regiments; the first was that of the *English*, over whom was *William Balladine*, a *Scotish* Gentleman, made Colonel, and *Terwhit* Lieut. Colonel.

Marquess *Hamilton*'s Army reduced to two Regiments,

Of the *Scotish* Regiment *Alex. Hamilton* was made Colonel. Here lay both the Regiments until they were drawn out by order from Duke *William* to go with him to disengage the King before *Norembergh*, where they peiced in with two Regiments of Foot more, the *Blew* Regiment whereof *Ross* was Colonel, and the *Green* Regiment was led by Col. *Warder*, to whom were joined a Regiment of Horse and four Companies of Foot, thence they go to *Lutzen* in *Misnia* (where a Battle was afterwards fought) of which more in its proper time.

Who are ordered to march to relieve the King before *Noremberg*.

The King of *England* having notice of this Reducement of his Army, intimated to the Marquess the high Esteem he had of the worth of Sir *Jacob Ashley*. And writ to him, that he could have wished that the *English* Regiment that was reduced had been conferred on Sir *Jacob Ashley*, but the King of *Sweden* was otherwise inclined.

The King of *England* had kind thoughts for Sir *Jacob Ashley*.

If it were not troublefom to the Reader, we would willingly give him (before we totally leave *Germany*, and though the Ambassador is

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The taking of
Crutzenack by
Assault, the
Kings of Swe-
den and Bohe-
mia present.

is come away) a brief Account of some Military Engagement by the *Swede's* Army, wherein the *English* and *Scots* were concerned in the Action.

The King of *Sweden*, upon his March out of *Bavaria*, in the beginning of *February* (*Old Stile*) 1632, had a design to reduce the Strong Castle of *Crutzenack*, and came in Person, and the King of *Bohemia* with him, to see the same performed, and gave particular Directions for the Approaches, it being a place of considerable Strength, and where he met with considerable Resistance from the Garrison of the *Spaniards* there; however after having sprung a Mine, and given three Assaults, which were performed by the *English* and *French* Voluntiers in his Army, the Place was carried by them, though not without sundry being killed, and almost all of them wounded in the Assaults: At last they obliged the Governor of the Castle to demand Quarter, and the Capitulation was made by the then *William* Lord *Craven*, and Col. *Boulin* Quarter-master General of the King of *Sweden's* Army. The Conditions were to march away with their Arms within three hours, under a *Swedish* Convoy. A *French* Marquess, Col. *Talbot*, of the House of *Shrewsbury*, and Capt. *Douglass*, slain; The Lord *Craven*, Lieut. Col. *Winde*, Sir *Francis Fane*, of the House of *Westmerland*, Mr. *Robert Marsham*, were all wounded.

The Kings of *Sweden* and *Bohemia* were present when the Assaults were made; and though this place was so taken by Assault, yet it is remarkable that none were put to the Sword after they were Masters of it; the which was acknowledged by the Governor of the Castle, as a great clemency in the King of *Sweden*, and of those *English* and *French* Voluntiers who gave them so frankly their Lives. When the Lord *Craven* came afterwards into the King of *Sweden's* Presence, the King told him, *He adventured so desperately, he bid his younger Brother fair play for his Estate.*

After the taking of the Castle, the King of *Sweden* designed for *Frankendale*; but *Tilly*, Lieutenant General to the Duke of *Bavaria*, having contrary to the Truce agreed upon (through the Intercession of the *French* King's Ministers) between the King of *Sweden* and the Elector of *Bavaria*, appointed to beat up the Quarters of *Gustavus Horn* (the King of *Sweden's* Field Marshal) at *Bambourgh* in *Franconia*, the King changed that Resolution, being highly displeased with *Tilly* for breach of Faith, and caused his Army to march directly towards *Bavaria*, where in his way he met with great Difficulties, both to gain the Passage over the *Danube*, more especially over the *Lech*; yet was performed by him with extraordinary Prudence, Expedition, and Success: for having viewed the latter, and finding an advantage of the Ground, whereby to facilitate his making a Bridge over the River, under the favour of his Cannon, he mounted in one Night's time near 120 Pieces of Battery, with which he did cruelly annoy *Tilly's* Army, which was incamped and intrenched under a Wood on the other side of the River, where General *Tilly* received a shot in his Knee by a Cannon Bullet, and General *Altringer* was hurt in the Head; so the Army quitted the Post, and the King, without any loss, gained that important Passage into *Bavaria*; and *Tilly* was carried in a Horse-Litter to *Ingoldstadt*, where he languished, and died shortly after; for whose Death there was great sorrow among the *Catholick Confederate Germans* and *Spaniards*.

Which

Which advantage of the Passage was pursued by the King after his Army was refreshed, till by the News of the Enemies approaching to *Ulm* to besiege it, he broke up towards the Relief of that Place, but the Siege not going forward, he settled his Quarters near *Noremburgh*, where *Wallenstein* with the Imperial Army posted himself likewise to bar the King's Passage forwards into *Bohemia*.

8 *Caroli.*

A further Account of the Passages at the Lech, is given thus by another hand.

The Enterprize was dangerous, and altogether impossible, as some conjectur'd, fearing the destruction of the Army might ensue thereupon. But the King's Courage and Resolution surmounted all things, and made that Passage as accessible to him as others. The King of *Sweden* understanding the Serpentine Windings of the *Lech*, which form'd it self at every turning into the figure of a half Moon, immediately he took up a Resolution to prevail, for he intrenched himself, and raised three Batteries, which was contrived and executed without delay, in one Nights time.

The King of *Sweden* passeth the River *Lech*, playing hard upon *Tilly* with his Cannon.

As soon as the Batteries were made upon the Banks of the River, they went to work with 72 Cannon-pieces, which plaid upon six Regiments of *Tilly's* Army, lodged in the Forrest opposite to them. The *Swedes* plaid with the Cannon very severely, without intermission; the Bullets flying into the Wood, made a most dreadful noise among the Trees and Men: These Cannon-shot did not only blind the *Bavarians*, but promoted the making a Bridge of Boats on the River near *Obern-dorf*, by reason of the Smoke. As soon as it was raised, the King of *Sweden* commands some of his Companies to pass and intrench on the other side of the River; which was done before the Enemy could well perceive it. Col. *Vangler* had the Honour, and Lieut. Col. *Forbasse* to pass first, at the head of 300 commanded Men; the King being extreamly satisfied with the Action, in making a Pass over the River.

As soon as *Tilly* had notice of it, he ordered four Pieces of Cannon to beat down the Bridge, and the Defences of the Terrace-Work. Before it could be made use of, He commanded several Regiments to attack them, but the *Swedes* did incredible things till they were reinforced; which coming very seasonably, after three obstinate Assaults on both sides, the *Bavarians* were forced to leave them in possession, both of the Bridge and Half-moon.

The Imperia-
lists vainly at-
tempt to hin-
der the *Swede's*
Passage.

The King of *Sweden* advanced his Troops with all possible diligence to pass the River in Person, but the *Bavarians* did not stay till his arrival, for they dislodged in the Night with great confusion, and withdrew themselves, part to *Newburgh*, and part of them to *Ingold-stadt*.

Tilly was wounded in this Combat, and the *Bavarians* hereupon began to lose their Courage; he was struck with a Bullet of three pounds weight above the Knee, after it had made several rebounds; they had much ado to carry him off, for they were constrained to halt several times in the Retreat, and look after his Horse-Litter; and whether it was the jogging thereof that incommoded him, the loss of Blood, and the pain that he endured, the one and the other, made him fall into such *Synopes* and swooning Fits, that they often took him for dead,

Tilly wounded
in the Knee
with a Cannon
Bullet.

Carried wound-
ed to *Ingold-
stadt*.

An. 1632.

He dies at Ingoldstadt.

dead, before they could carry him to *Ingoldstadt*, where they thought to set his Knee, but all in vain; for after they had taken out of his Thigh four broken Bones, with unutterable torment to him, his Weakness, Age, and Grief, together with his Vexation and Melancholy brought him to his Grave.

His loss was very much regretted by his own Party, and had been more, but for his misfortune at the Battel of *Lipsick*, and since that which befel him after his Conquests. Many then remember the words of the Administrator spoken after the slaughter of *Magdenburgh*; *That Blood could not be expiated but by Blood; and that the Actions of Murderers were very ominous to the Souldery, sooner or later.* In fine; except some of those Misadventures mentioned, *Tilly's* Reputation was unspotted, and his Courage, Valour, Experience, his Credit with Men of War, his Conduct, and his signaliz'd Services to his own Party for many Years, might justly challenge, on his behalf, the Title of one of the Greatest Commanders of the Age. He obliged the Souldiers to cherish his Memory by a Legacy of 60000 Rixdollers, which he bequeathed to the *Veteran Regiments* that had serv'd under him.

His Legacy to the Souldiers.

The King of *Sweden* having gained the Pass over the *Lech*, marches into *Bavaria*, destroyed eighty great Towns, Castles, and Villages, *Ingoldstadt* only excepted.

The King of Sweden in great danger at Ingoldstadt.

The King of *Sweden* advanced somewhat too near, to satisfy himself of the situation of *Ingoldstadt*, according to his usual custom, mounted upon a Gray Horse: The Engineers of *Ingoldstadt* conceiving some Person extraordinary in that Equipage, so level'd the Shot, that a Bullet took his Horse in the Crupper, and covered him with Blood and Dust. All his Retinue were in an unexpressible Terror, but they were soon changed into matchless Joys, when they understood their Head was safe, and their King ready to mount another Horse, without any other Transport, and returned God thanks for his Preservation.

All the Camp bore a part in this Astonishment and Joy, and supplicated the King carefully to manage the Lives of so many Millions of Souls as depended (under God) on his Conduct, since his Courage would not permit him to manage his own.

The King of Sweden's Answer to the Recommendation of his Army to manage his Life more warily.

The King replied; *That the Bullet that saluted him so near that day, did put him in mind that he was Mortal, and subject to the same Accident as the meanest of his Souldiers, and to that general Law, which no Crowns, Victories, nor Armies can avoid. That it remained only for him to resign himself to God's Providence, and that his Comrades who had their Arms in hand with him, should firmly believe, that the justice of the Cause, for which they exposed themselves to the hazard of Arms, had other dependency than his Life only. That the German Liberty would not want Maintainers, nor these Persons here Success, as long as they kept themselves in God's Way.*

After the Death of *Tilly*, the Emperor was in great distraction how to preserve the Empire, half of it being already subdued by the *Swede*; and the Duke of *Saxony* in a manner Master of *Bohemia*. The Landgrave of *Hess* cast himself on the *Swede's* side; and the danger to the Empire seemed so great, as it stagger'd the Duke of *Bavaria*, his

his Country being now almost ruined, whether to stand any longer to the House of *Austria*.

8 *Caroli.*

The Emperor after many Consultations, and the extremity of the Affairs of *Germany* requiring it, obliged him to have recourse to *Wallenstein*, whom he had formerly cashier'd at the Diet at *Ratisbon*, as the only Person that seemed capable to save the *Empire* from Ruin; And the Duke of *Bavaria*, who had contributed much to the laying of *Wallenstein* aside from his Command, (and whom he perfectly hated) yet, seeing the Danger of his own Country, wherein the *Swede* had made great devastation, he seemingly complied with the Emperor to make *Wallenstein* *Generalissimo*. And now was the Emperor put to great Difficulties how to gain *Wallenstein* to accept of that Command; whereupon he privately permitted his Relations and Kindred to go unto him to sound his Inclinations, and to tell him what an Honour it would be to him once more to be *Generalissimo* of the Empire, and so to spread his Fame throughout the World: But *Wallenstein* well perceived the Artifice. He now saw the Business brought under his hands to effect the secret Design which he had in his Thoughts; so he answered his near Relations very sparingly and modestly, that he was grown old, and desired to remain Quiet, and not to be robbed of his Repose; and did much deplore the Misfortune of his Sovereign the Emperor, as if he had been deeply affected for him, having at that time Revenge in his Heart against the Emperor, for the said Affront put upon him.

But at last seeing himself incessantly pressed, he gave fained words, promising his Service but for four Months only, in which time he would undertake to raise an Army of 30000 Men; but declared, He would be Sole and Absolute during that time, meaning not to be commanded by the King of *Hungary*, *Ferdinando* the Emperor's Son. For *Wallenstein* retained privately in his Thoughts to usurp the Kingdom of *Bohemia*, and to act so for future, as to make himself King thereof.

His Acceptance of this Command gave Reputation to the Affairs of the Emperor; he gave out Commissions to levy 60 Regiments, and in two Months time raised an Army of 30000 Men, having some supply of Monies from the Emperor, and the Princes, and great Courtiers about the Emperor, who did contribute much towards that Service. His Army was no sooner ready, but he sent to *Vienna*, that the Emperor would send a General to command them; in the meantime he put in Employment the divers Colonels and Captains, and other Officers, whom he had retained since the time that he was dismissed his Command; and his Kinsmen and Confidants had the greatest command under him. At which the Ministers of *Spain* and *Bavaria* were startled, and feared he should continue in Command, apprehending he had a Design of his own to revenge Injuries, and therefore would have had the Emperor to make *Ferdinando* King of *Hungary*, his Son to be *Generalissimo*; but the Conditions of Affairs was such in the Empire, as they must cast themselves upon *Wallenstein*, and upon his own Terms.

And by the beginning of *April*, he marched with his Army towards *Bohemia* to recover the City of *Prague* from the Duke of *Saxony*, wherein the Duke had 7000 Soldiers; and Summons being given, the Duke refused; *Wallenstein* makes a Breach with his Cannon, and

An. 1632.



Commands the lesser City to be Stormed, but the *Saxons* beat them off many times; but *Wallenstein* resolving not to spare Mans Flesh, makes his Horse drive the Foot on again, and so overlays the *Saxons* with numbers and frequent attempts by Arms, that he by force enters this lesser City, which presently brought the other City to Composition, to go out with their Lives and Baggage, only with Swords by their sides, and leaving the Colours, and other Arms behind them. Hereupon *Wallenstein* sends their Colours he had taken to *Vienna*, and the Emperor creates him Duke of great *Glogau* in *Silesia*.

And *Wallenstein* acted very successfully in *Bohemia*, so that in the month of *June* he took *Egra* a strong Garrison Town, and other places. About the 17th of *June*, *Wallenstein* and *Bavaria* join all their Forces against the King of *Sweden*, resolving to visit him at *Noremburgh*, where the King had intrenched himself, being too weak at that time to Encounter *Wallenstein* and *Bavaria*, and *Wallenstein* makes his Headquarters betwixt *Noremburgh* and *Furt*, where *July* the 4th he sat down and intrenches himself, having the fastness of the Woods and the tops of the Hills, and the advantage of being between the two Rivers *Rednitz* and *Pegnitz*. Thus did *Wallenstein* put his Army betwixt the King's Camp, and the Country of *Franconia*, whence his Forces and Victuals were to come, yet the King also had the help of the Town of *Noremburgh* to supply the Army with Provisions.

On the 18th of *August* the King had drawn together those Forces, which he had sent abroad under the Commands of *Oxenstern*, the two Dukes of *Weymar*, the Landgrave of *Hessein* and *Bannier*, and on the 21st of *August* the King took a view of the whole Army drawn up into Battalia before *Wallenstein's* Trenches, and stood in that posture all day to make a Brave upon him, the King's Army consisting of 26000 Marching Men in Field and Battalia, and at this time in good health and lusty: but notwithstanding this Bravado, *Wallenstein* would not budg a foot out of his Quarters, thereupon the King cast up three great Batteries, and from thence played incessantly into *Wallenstein's* Quarters, he thundring the like into the *Swedes* Quarters. But the next day, (*August* 22.) the King perceiving the *Wallensteiners* wisely withdrawing themselves out of the Beat and Raking of the Swedish Ordnance, the King dismounted his Cannon, and removed to possess himself of a certain Hill, which commanded *Wallenstein's* Leaguer, hoping to beat him out of his Quarters, and to force him to fight. Which *Wallenstein* perceiving, retired himself into the Forest called *Altemburgh*, where he made use of an old Fortrefs, and strongly intrenches himself, and barracado'd up all the ways, by cutting down round him the Trees. The Hill was very high and steep, craggy and bushy.

But, notwithstanding all Discouragements the King having got all his Army together, resolved to force *Wallenstein* out of his Trenches by Assault, which many of his own Commanders, as well as Scottish Officers, would have perswaded the King against making an Attempt upon him on so great Disadvantage. But the King understanding the Emperor had sent to *Wallenstein* to avoid fighting, to weary out the *Swede* by delays, was the rather resolved to attaque him in his Trenches, the King of *Bohemia* and Marquess *Hamilton* being at this time with the King of *Sweden*, were Eye-witnesses of what followed presently after in a sharp Encounter.

On

On the *Noremburg* side of his Trenches the King cast up three great Batteries, and from thence played incessantly into *Wallenstein's* Quarters, he thundring as furiously upon the *Swede* again. General *Bannier* at that time was shot in the left Arm above the Elbow.

8 Caroli.

The King caused some greater pieces of Ordnance to be mounted upon his Batteries, and seeing then they did no hurt to the Enemy, for *Wallenstein's* Men drew out of the reach of the Swedish Ordnance; Hereupon the King caused his Ordnance to be dismounted, and drew the *Noremburgers* out of their Trenches, and that day passed most part of his Army over the River *Rednitz*, a little above *Furts*, where the *English* and *Scots* were placed to secure the Pass.

Wallenstein perceiving the King's intention to possess himself of a certain Hill which would greatly advantage the King to beat up his Quarters, thereupon retired into the Forest called *Altemburgh*, and strongly intrencht himself, and barracaded up all the Ways, cutting down all the Trees round about, having a high Hill, and very steep for his advantage; nevertheless the King resolved to fall upon him in his Trenches.

August 24.

Wallenstein in-
trenches at
Altemburgh.

The King himself led the Van-guard of the left Wing, Duke *William* of *Saxon Weymer* had the honour of the Battel to close up the King's right hand, and Duke *Barnard* with the *Landgrave* of *Hessen*, brought up the Rear; some of these Troops were sent to fall upon the ruinous old Castle of *Altemburgh* on the Hill, the winning and defending of which old Castle spent ten hours time; on both sides many a brave Gentleman there lost his life, many wounded, and many taken Prisoners. Then the King himself led on his Men close to the Enemies Works and Batteries, but *Wallenstein* made a stout resistance, having the advantage of the higher Ground, Trenches and Batteries, maintained the Fight with extremity of confidence; the Cannons and Musquets firing all day long, both sides were desperate in maintaining the Fight with Terror, Fury and Obstinacy, Regiment attacking Regiment, until the greater part of the Foot on both sides were thoroughly engaged in the Medly. Most of the *Swedes* being come down from the Castle to the Plain, there began another Encounter, the Enemies Curassiers issuing out upon the *Swedes* Musquetiers, did so much overlay them, that they forced them to give ground, and many brave Commanders of the *Swedes* there taken and slain.

The Assault.

The King leads
on his Men.

A desperate
Fight.

The night beginning now to approach, put an end to the Skirmish, and both sides began to fall off from one another, having lost their Sight rather than their Courage. Thus was there a drawn Battel. The *Swedes* indeed lost their hopes, and the *Imperialists* kept their Ground; the King did now (when too late) call to mind that many of his own, as well as *Scots* Officers, persuaded him against this so rash Attempt.

The night
parts them.

A drawn Bat-
tel.

Now it was high time for the King of *Sweden* to sound a Retreat; and much better had it been (saith one Historian) that a Charge had never bin founded: It was almost an impossible thing to get up the Mountain and attaque that old Castle without huge Disadvantages.

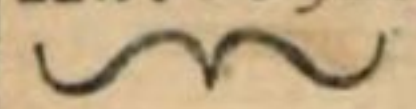
Better never
begun.

In this late Action on the King's side were slain the Count *Erspac*, Maj. Gen. *Boetius*, and divers of the *English* and *Scots*; And now the King perceiving that *Wallenstein* was resolved to tire him out with expectation of a Battel, and that he would upon no other Terms accept of the Encounter, judged it his best course to leave the sullen General in the fastness of his Trenches, seeing he would not be drawn to a Field

Commanders
slain.

Field

An. 1632.



Field Fight. So the King resolved to enter into Action by way of diversion, having secured *Noremburg*, a place which had been good to and tender of his Army, by leaving *Kniphausen* with sufficient Forces to defend the place against *Wallenstein*; so the King resolves to fall into *Bavaria* amongst some of the Catholick Leaguers Lands, and to force out *Wallenstein* by that diversion: And on the 8th of September the King dislodges, and *Wallenstein* dislodges likewise.

Afterwards there happened many Encounters between Parties of both Armies, which we forbear to mention, lest it weary the Reader, therefore accept a brief account of the King's return to *Noremburg*, and of the Battel at *Lutzen*, Novem. 6. 1632, where the King of Sweden was Slain, referring to a more large account in the *Appendix*.

The King at
Naumburg.

Two English
Commanders
taken Prison-
ers,
Detained till
the Battel was
over.

On *Thursday November* the 1st the King of Sweden arrived at *Naumburg*, and the same day went out upon a Party for discovering the Enemy; after him, that afternoon went out these three English Gentlemen, L. Col. *Francis Terwhit*, Serj. Maj. *John Paulet*, and Capt. *Edward Fielding*. These three taking the right hand way, the King being gone on the left, fell into an Ambush of the *Crabats*. The first and the last were taken Prisoners, and were carried into the Imperial Leguer, and kept under a Guard in the rear of the Army all the day of the great Battle at *Lutzen*. *Wallenstein* marched to *Lutzen*, where, and in the Towns thereabouts; his whole Army Quartered.

The King chal-
lenges the Im-
perialists to
fight.

The King thereupon parted out of *Naumburg*, and doubled his March, yet it was night before the Army could get within two English miles of *Lutzen*. The King had an ill Pass to get over within two miles of *Lutzen*, and the King had another Pass right against that which the *Imperialists* had possessed: he from thence let fly some Pieces of Ordnance among them, to let them know he challenges them to fight, but they not liking the place, marched off in the night.

The Day of
Battel.

A great Mist.

The Word.

The *Imperial* Army was in a terrible Hubbub at the King's sudden coming and getting over the Pass, and *Wallenstein* began to think of places more advantagious to engage in Battel. He mounted his Ordnance upon the Windmill Hills, and then began to cast up a Trench of Earth about them, working all night, and to make the Hedges and Ditches to serve for Breakworks to lodge his Musquetiers in.

Tuesday, the fatal sixth of *November* began to draw near, the Drums beat a March towards the Enemy, but the morning proved so misty, that it was impossible to see which way to march; but about eight of the clock the Mist brake up; the King having made a Speech at the Head of his own Forces, and to the *German* Troops, gave the Word to the Souldiers, which was *God with Us*; *Wallenstein's* Word was the same which *Tilly* had, *Jesu Maria*; the King advanced about nine of the clock and shot off his warning Piece. The King's Army having all the way a full view of the Imperial Army, by which they perceived *Wallenstein* had much overpowered them in numbers, having a mighty long Front much above an English mile, from one Wing-end to another, which might well be, for *Wallenstein's* Discipline was to march ten deep in File, and not many in Reserves. The Armies being come within Cannon-shot, the great Ordnance began to play terribly on both sides, till they joyned Battel, and came to a close Fight, wherein the King of Sweden was slain; or rather in a Party of Horse with which he went before the Fight to discover the Posture of the Enemy before the Mist brake up, and was surprised by the *Curassiers*, and the King and

and the King and his Party cut off; yet the Victory was obtained over *Wallenstein* and his whole Army. As for the Particulars and Circumstances attending this Battel, see more at large in the *Appendix*.

8 *Caroli.*

This Year was remarkable for the Death of three Kings; *Sigismund* King of *Poland*, who died the 29th of *April*; *Gustavus Adolphus* King of *Sweden*, who was slain on the Bed of Honour, *November* the 6th; and *Frederick* King of *Bohemia*, who died of the Infection the 19th of *November*.

The Death of three Kings.

Wallenstein Duke of *Fridland*, and the Emperor's *Generalissimo*, and a Prince of the Empire, was near his End; which gives us occasion to speak something of that great Commander, by former Successes over the *Danes* and *Saxons*; who having collected his Forces at *Egra* in *Bohemia*, and paid them three Months Pay in Money, took the Oaths of Officers and Souldiers to himself, without naming the Emperor at all. And now his Revenge for being cashiered at the Diet at *Ratisbon*, breaks out, and the Discovery is made, That he was to join with the *Swede*, and share all between them, and *Wallenstein* to be made King of *Bohemia*.

Wallenstein's Ambition and Revenge.

The Emperor seeing the Danger he was in, makes sure of the Garrison of *Prague*, the Capital City of *Bohemia*, by a round Sum of Money.

Two of the Emperor's Colonels, *Gordon* and *Leslie*, Scots, and *Butler* an Irish Officer, being faithful to the Emperor, and abhorring the Design of *Wallenstein* to betray his Master, conspire *Wallenstein's* Death: and *Butler* comes first to him in his Bed-Chamber at *Egra*, as he was dressed for his Bed, cried out unto him, *Thou Traitor to the Emperor and Empire*, and ran him through the Body with his Partisan stark dead, and threw him out of the Window (as some write) and thus ended that Ambitious and Revengeful Man.

Wallenstein murdered.

This Character is given of him, That he was the Son of a Baron in *Bohemia*, and not raised from the Plough, as some would have it; for a Baron in *Bohemia* is one of the greatest Lords in that Kingdom, in which there are neither Dukes nor Marqueesses. The Barons being so jealous of their Dignity, that if a Stranger Duke would be naturalized *Bohemian*, they would oblige him to quit his Title, and to content himself with theirs.

Wallenstein's Character.

His Father brought him up in the Protestant Religion, and would have had him apply himself to Letters; but his turbulent Spirit inclined not that way, which induced his Parents to send him to Court sooner than they intended. So they presented him Page to the Marqueess of *Burgh*, Son to the Arch-Duke *Ferdinand* of *Insprug*; whilst he remained there, falling from a high Window, without hurting himself, he turned Roman Catholick; fancying, that after this happy Escape, he was reserved for something extraordinary; so he quit his Master, and travelled through *Germany*, into *England*, *France*, *Italy*, and other parts; and having much improved himself, returned into *Germany*.

The Troubles of *Bohemia* following, and the Nobility of that Kingdom confederating against the Emperor, *Wallenstein* was employed by the Emperor, he defeated 6000 *Hungarians* with fifteen Troops of

An. 1632. of Horse, which purchased him very extream Fame, and very extream Envy.

In this high Employment he added much to his Reputation, in taking the Town and Diocess of *Halberstadt*; conquered *Hall* and its Bishoprick; wasted the Territories of *Magdenburgh*, entred into those of *Anhalt*, fortified *Dessau*, defeated *Mansfield*, and with him 4000 *Flemmings*, the chief Force of the *Danish* Army. After that, perceiving that *Mansfield* and *Weymour*, with their Forces, bent towards *Hungary* by way of *Silesia*, to give Life to the Rebellion, and join with *Bethlem Gabor*; he pursued *Bethlem* and *Mansfield*, and finding them at the Siege of *Novegrade*, vanquished them, cut in pieces the Janisaries that were come to the Succour of *Transilvania*, and drove *Mansfield* out of *Germany*, who had bin its Terror for so many Years; returning to *Silesia*, where he found *Weymour* dead, he obliged half his Troops to surrender themselves, and overcame the rest; took in all the Revolted Towns, and after he had pacified the Hereditary Provinces, led his victorious Army, strengthened by that of *Tilly*, against the King of *Denmark*.

With these great Forces, he defies the Marquess of *Urlach*, conquers the Archbishoprick of *Bream* and *Holsace*; filled his Troops out of the new Levies that *Charles* of *Lawenburgh* had raised for the Enemy; rendred himself Master of all that lies between the Ocean and the *Baltick-Sea*, leaving the King of *Denmark* nothing but *Glucstadt*, and that little corner of Land which is separated from the rest of his Dominions. *Wallenstein* drove the King of *Denmark* out of *Pomerania*, into which Province he had made a Descent and Progress, forcing him to remount his Ships, where yet perhaps he had not found his safety, if *Wallenstein* had had Sea-Forces; infomuch as from that time to the Peace of *Lubeck*, the *Dane* never enterprized any thing, contenting himself to succour those of the *Sound*, who were only able to stop the torrent of the Imperial Arms, which so many Nations had in vain opposed.

In this flourishing Estate of the Empire, leaves *Tilly* Lieutenant General to the Duke of *Bavaria* in *Frize*, to take up his Winter-Quarters; but in effect it was, that the Emperor might not have any longer the Duke of *Bavaria* for Companion, and that himself might remain without Competitor, sole Director of all things.

Ferdinando the Emperor conferred on *Wallenstein* the Dukedome of *Mecklenburgh*, who became Master of that Estate and Title. He secures himself of all the Ports in the *Baltick-Sea* except the *Sound*, to which he lays violent Siege.

And now he might quietly have enjoyed the Glory of his great and faithful Services, if his Ambition (that was always above his Fortune) had not transported him; he was stiled *Highness*, Eating alone, stamping Money, soliciting Audiences, affecting to resemble Kings; which corrupted the solidity of Vertue, and he was brought to an untimely end.

The Emperor of *Muscovia* having a design to regain a great Town out of the King of *Poland*'s Possession, called *Smolenskoe*, being a strong Place, lying in the Borders of *Poland*, formerly taken by *Sigismund* King of *Poland* from the *Muscovite*; he applied himself to the King of *Great Britain* for leave to raise 2000 Englishmen; to which

2000 English
sent to the as-
sistance of the
Muscovites.

which the King gave consent, and recommended Colonel *Thomas Sanderson* to command the Men that should be raised. And having got a double Regiment together, he transported them by the *North Cape*, and landed them at *Arch-Angel*, being the North Part, and Port to *Musco*.

After they landed there, the 6th of *August* this Year, they were nobly received and treated, and had large pay allowed unto them.

The *Muscovites* presently march with a great Hoste, and lay in Siege to *Smolenskoe*.

The *Pole* marches also with a Potent Army to raise the Siege, and entrenching himself with all the Advantages that might be, to secure his Army against the Assault of the *Muscovite*, and yet so ordered his Trenches, that he might by degrees send out strong Parties to cut off Provisions from going to the Camp of the *Muscovite*.

The General for the *Muscovites*, had a Design with 3000 Foot and Horse, to fall upon the *Pole* in their Trenches, being weakned at that time by drawing off their Horse to prevent the *Muscovite* from being relieved by Provisions. And having designed Colonel *Sanderson* to command the Men, appointed him to attaque the Enemy in one Post: The General and he took a serious view of the Enemy's Camp, where to fall on. At which Colonel *Lefly*, a Scot, was offended that the General had not honoured him with that Service; and an Alarm being beaten, when they were taking the view, the General commanded *Sanderson* to hasten to his Quarter; and in his passage *Lefly* shot him dead with a brace of Bullets, without giving him the least warning to defend himself.

Upon which Murder, the English (in a rage) drew into a Body to be revenged upon *Lefly*; the Scots likewise drew into a Body, but the General prevailed with both Parties to mind their Duty against the Enemy, and promised the Murderer should be secured, and accordingly he was put under a Guard. But the Enemy, the *Pole*, understanding this Distraction between the *English* and *Scots* in the *Muscovite* Army, falls upon the *Muscovites* in their Leaguer, greatly disorders them, and kills five or six thousand Men, and constrained the *Muscovite* to accept of dishonourable Terms; for a Peace was then concluded of all Matters in difference between those two Princes concerning their respective Claims to that and other Places.

After the General of the *Muscovite* returned home, he had his Head cut off, and his Son the Lieutenant General was whipt to Death about the Streets, and his Family banish'd for ever into the Country of *Ibera*, there to catch Sables for the Emperor's Profit.

The Murderer *Lefly*, after some time of durance in *Muscovia*, was sent into *England* a Prisoner; and here he was committed in Order to a Trial before the Court of *Chivalry*, where he was prosecuted by the Friends of *Sanderson*; but that Court found they could not here punish Murder with Death, which was committed in a Foreign Nation. *Lefly* afterwards obtained his Pardon, and then returned again into *Muscovia*, where he was, upon suspicion of Treachery, imprisoned and condemned to Die; and from the top of a High Tower was flung down upon sharp Stakes, and Spikes fixed in the Ground; and in that torture, endured for some time a lingering Death.

8 Caroli.

Well received and treated

Col. *Sanderson* slain by Col. *Lefly*.

The *Pole* takes advantage of the difference between the *English* and *Scots*. A Peace concluded.

The *Muscovite's* General put to Death.

Lefly sent Prisoner into *England*.

An. 1632.

At this time a Proclamation came forth for the well ordering of the Silk-Trade to this effect following.

‘ **W** Hereas upon discovery of some notable Abuses in the false
 ‘ Dying of Silk, which had crept in upon the Trade, by the
 ‘ Fraud and Covetize of some ill-disposed Persons; whereby besides
 ‘ the unjust increase of the Weights, the Silk was weakned and cor-
 ‘ rupted, and the Colour made worse, to the great abuse of Us and Our
 ‘ Subjects, and to the apparent overthrow of the whole Trade, if the
 ‘ same should not have been prevented: We taking into Our Princely
 ‘ consideration the many Benefits that do redound to Our loving
 ‘ Subjects, by the Importation of Raw Silk from Foreign Parts, and
 ‘ working the same into Manufactures here at home, whereby mul-
 ‘ titudes of Our poor People are daily set on Work and maintained,
 ‘ though to Our own loss; did heretofore, by our Publick Procla-
 ‘ mation, given at Our Court at *Farnham*, the ninth day of *August*,
 ‘ in the sixth Year of Our Reign, utterly forbid the use of all such
 ‘ Deceit and Falsity in the Dying of Silks, and for the present did
 ‘ thereby prescribe some Rules to be observed for the preventing of
 ‘ the like Abuses thereafter, until upon serious and mature delibera-
 ‘ tion, by the Advice of Our Council, We should be able to make
 ‘ a more absolute Reformation.

‘ And whereas We finding by experience upon other Trades, That
 ‘ this so great and good a Work was not thoroughly and perfectly to
 ‘ be done and performed by any other way, than by a Corporation to
 ‘ consist of those Persons and Members thereof, who having know-
 ‘ ledge in the severall Trades or Mysteries of Working and Dying of
 ‘ Silk, could best take timely notice of, and discover the severall De-
 ‘ ceits and Abuses, which otherwise would from time to time be at-
 ‘ tempted and used therein; upon mature consideration, did there-
 ‘ unto incline Us unto the way tending to the encrease of the said
 ‘ Trade, and maintaining the estimation thereof, (which we much de-
 ‘ fire); and thereupon by Our Letters Patents, bearing date at *West-*
 ‘ *minster* the twentieth day of *May* last, did Constitute, Ordain, and
 ‘ Declare, That the Persons therein-named, being Persons using the
 ‘ Trade of Buying, Selling, or working of Silk, Gold, and Silver
 ‘ Thread, and the severall Manufactures thereof, and their Succes-
 ‘ sors, should for ever hereafter be one Body Politick and Corporate,
 ‘ by the Name of the *Governour and Company of Silkmen of London*,
 ‘ for the well ordering of the Silk Trade throughout the Kingdom
 ‘ of *England*; thereby giving them full Power and Authority to
 ‘ Make, Ordain, and Establish all, or any such Laws, Statutes, Acts,
 ‘ Orders, Constitutions, and Ordinances, for the good Government,
 ‘ Order and Rule of the said Governour and Company, and every
 ‘ or any of them: As also all and singular other Subjects of Us, Our
 ‘ Heirs and Successors, residing within Our Kingdoms of *England*,
 ‘ *Ireland*, and Dominion of *Wales*; and intermedling with, or in
 ‘ any wise using or exercising the Art, Trade, or Mystery of a Silk-
 ‘ Man, Selling or Working of Silk, Gold or Silver Thread, or Ma-
 ‘ nufactures made of them, every or any of them, as to them should
 ‘ seem meet and convenient, for the taking away, punishing and pre-
 ‘ venting

venting all present and future Abuses, that then had, or at any time then after should or might arise, or grow upon the same Trade, in the Throwing, Twisting, Dying, Mixing, Weaving, Working, or Selling of Silk, or Silk-Wares, or Gold or Silver-Thread; or in the several Manufactures made of them, every or any of them, and also all other Abuses whatsoever, from time to time, growing or arising upon the Silk Trade.

And the same Statutes, Laws, Acts, Orders, Constitutions and Ordinances so had and made, to put in use and execution accordingly; and at their pleasure to Revoke, Repeal, and Dissolve the same, or any of them.

Which Letters Patents we were the rather inclined to grant, for that We reposed special Trust and Confidence in those of the said Company, for the well-ordering of the said Trade, and taking away the Abuses used therein. That whatsoever Silk should be found to be thereafter heavy dyed, shall be burnt and destroyed.

And in regard of the certain Weights set by a former Proclamation, We have reposed special Confidence in the Care and Industry of the said Governor and Company, to command Obedience thereunto.

Titles of PROCLAMATIONS, &c.

Pro Anno 1632.

A Proclamation commanding a due Execution of Laws, concerning *Lent and Fasting Days*.

Greenwich,
June 24.

A Proclamation commanding the Gentry to keep their Residence at their Mansions in the Country, and forbidding them to make their Habitations in *London*, and places adjoining.

Greenwich,
June 20.

A Proclamation inhibiting the resort of his Majesty's People to the Court for Cure of the *King's Evil*, and to restrain the access of others, from Infected Places.

Greenwich,
June 20.

A Proclamation concerning the well-making of Soap.

Greenwich,
June 28.

A Proclamation concerning the Post-Master of *England* for Foreign Parts.

Orlands,
July 19.

A Proclamation to restrain the Transportation of Corn, Wooll, Wool-fells, Fullers-Earth, and Leather.

Hampton-Court, Sept. 30.

In Cam. Stell. Coram Conc. ibid. 12. die Octob. Anno Octavo Caroli Regis.

Tho. Jupp.

A Proclamation concerning Gold Weights.

Whitehall,
Decemb. 20.

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Historical Collections.

An. 1632.

Whitehall,
Jan. 12.

A Proclamation prohibiting the making up of Girdles, Belts, Hangers, and other Wares for Mens wearing, or for War-Service, with Brass Buckles.

Whitehall,
Feb. 18.

A Proclamation for Prising of Wine.

Whitehall,
March 20.

A Proclamation against making Collections without Licence under the Great Seal.

Whitehall,
March 22.

A Proclamation concerning the Prising of *French* Wines.

Historical

Historical Collections

For the Year 1633.

The Arch-Bishop of Canterburies Diary for the Year 1633.



IN the 13th of May, being Munday, I fet out of London to attend King Charles into Scotland.

May, the 24th the King was to enter into York in State.

June 6. I came to Barwick; that Night I Dreamed, that K. B. sent to me in Westminster-Church, that he was now as desirous to see me as I him; and that he was then entring the Church: I went with hope, but met another in the middle of the Church, who seemed to know the Business, and laughed, but K. B. was not there.

June 8. Whitson-Eve I received Letters from K. B. unalterable, &c. by this if I return, I shall see how true or false my Dream is, &c.

Saturday, June 15. I was sworn Councillor of Scotland.

June 18. Tuesday after Trinity Sunday K. Charles Crowned at Holy-rood Church in Edenburgh. I never saw more expressions of Joy than were after it, &c.

June 19. Wednesday, I received two Letters from K. B. No Changling, &c. within three hours after, other Letters from K. B. believe all that I say, &c.

June 29. Friday, Letters from K. B. no D. true, if not to my contentment, &c. June 30. I preached to his Majesty in the Chapel in Haly-rood-House at Edenburgh.

July 1. Monday I went over Forth to Brunt Island.

July 2. Tuesday to St. Andrews.

July 3. Wednesday over Tay to Dundee.

July 4. Thursday to Falkland.

July 7. Sunday to St. Johnston.

July 8. Monday to Dumblane, and Striveling, my dangerous and cruel Journey, crossing part of the Highlands by Coach, which was a wonder there.

July 9. Tuesday to Linlithgow, and so to Edenburgh.

July 10. Wednesday, his Majesties dangerous passage from Brunt-Island to Edenburgh.

July 11. Thursday I began my Journey from Edenburgh towards London.

July 13. Friday, that night at Innerweek; I dreamed that L. L. came and offered to sit above me at the Council Table, and that L. H. came in and placed him there.

Arch-bishop
of Canterbury's
Diary.

Id est Bishop
of Lincoln.

Id est Lord of
Holland.

July

An. 1633.

July 20. *Saturday* the King came from *Scotland* to *Greenwich*, having come Post from *Barwick* in four days, (being 260 Miles.)

Friday, July 26. I came to my House at *Fulham*, from *Scotland*.

July 28. *Sunday*, *K. B.* and I met, all the strange discourses mistaken, I went away much troubled, but all settled again well, August 30. *Saturday* following.

Sunday, August 4. news came to Court of the Lord Arch-Bishop of *Canterburies* death, and the King resolved presently to give it me, which he did August 6.

August 4. That very Morning at *Greenwich*, there came one to me seriously that vowed ability to perform it, and offered me to be a *Cardinal*: I went presently to the King, and acquainted him both with the thing and Person.

August 7. *Wednesday*, absolute settlement between me and *K. B.* after I had made my case known at large. God bless me in it.

August 14. *Wednesday*, a report brought me that I was poysoned.

August 17. *Saturday* I had a serious offer made me again to be a *Cardinal*; I was then from Court, but so soon as I came thither (which was *Wednesday*, August 21) I acquainted his Majesty with it: but my Answer again was, that somewhat dwelt within me, which would not suffer that till *Rome* were other than it is.

August 25. *Sunday*, my Election to the *Arch-bishoprick* was returned to the King, then being at *Woodstock*.

September 19. I was translated to the *Arch-bishoprick* of *Canterbury*. The Lord make me able, &c.

The day before when I first went to *Lambeth*, my Coach, Horses and Men sunk to the bottom of the *Thames* in the *Ferry-Boat*, which was overladen, but I praise God for it, I lost neither Man nor Horse.

November 13. *Wednesday*, *Richard Boyer*, who had formerly named himself *Lodowick*, was brought into the *Starr-Chamber*, for most grossly misusing me, and accusing me of no less than *Treason*, &c. He had broke Prison for *Felony* when he did this. His Censure is upon Record, and God forgive him. About the beginning of this Month the *Lady Davis* Prophesied against me, that I should very few days outlive the fifth of *November*. And a little after that one *Green* came into the Court at *St. James's*, with a great Sword by his side, swearing the King should do him justice against me, or he would take another course with me. All the wrong I ever did this man was, that being a poor Printer, I procured him of the Company of the Stationers five pounds a Year during his Life. God preserve me, and forgive him: he was committed to *Newgate*.

Sunday, November 24 in the afternoon I Christned King *Charles* his second Son, *James Duke of York*, at *St. James's*.

A Thanksgiving for the safe Delivery of the Queen's Majesty, and happy Birth of the Duke of York.

MOST Gracious God, and Loving Father, we give thee all humble and hearty Thanks, for thy great Mercy, in blessing the Queens Majesty with a happy Deliverance, in, and from the great Pains and Peril of Child-birth. We humbly beseech thee to continue and increase this Blessing, that she may happily overcome this, and all other Dangers. That His Most Gracious Majesty may long have joy in Her most happy Life; and both of them Comfort in the Royal Prince Charles, and the rest of their Princely issue, particularly in the Newborn Prince the Duke of York. That they may all prove a Healthful, Hopeful and a Successful Posterity; that both Church and Kingdom may have fulness of Joy in them. That so their Majesties Royal Persons may be filled with Honours in this Life, and with Eternal Happiness in the Life to come. And this even for Jesus Christ his sake, our only Saviour and Redeemer. Amen.

This Year His Majesty being resolved on a Progress into Scotland, on the 4th of May issued out a Proclamation to this Effect.

THat whereas in His Majesties Progress through divers parts of the Realm, necessity requires, That a great number of His Majesties Subjects, not only Noblemen, but others, attending his Service, and others for their necessary Occasions, should frequent those places, where the King in His Royal Person shall resort, and it is therefore requisite that Competent Provisions be made, that they be not exposed to the intolerable Avarice of Bakers, Brewers, Inholders, Butchers, and Sellers of Victuals, who do ordinarily unlawfully exact and demand unreasonable and extream Prices for Victuals, Horsemeat, Lodging, &c. above the Prices they were sold at before the Kings coming into those Parts: Therefore His Majesty doth Publish and Command, that all Persons do keep such Prices as are and shall be Assessed and Rated by the Clerk of the Market of the King's Household, or his Lawful Deputy, within and without their Liberties, upon the presentment of Jurors, by virtue of his Office Sworn and Charged from time to time.

Concerning the Prizes of Victuals within the Verge of His Majesties Household.

THe Kings Majesty having taken into his Princely Consideration some Inconveniencies, which may fall out and happen in His intended Journey towards His Kingdom of Scotland, if present care be not had to prevent the same, hath thought fit, by Advice of His Privy Council to publish and declare, That his Royal Pleasure and Command is, that none of his Subjects of what Degree or Quality soever they be, during the time of His Majesties going and returning in the said Journey, shall presume within the Verge of His Majesties Court, to take up or possess themselves of any Lodging, of their own private Authority, but shall first receive a Billet from His Majesties Harbingers, or some of them. And his Majesty being graciously Pleased and providently Careful, to prevent such Grievances, which may in this Journey happen to

May the 5th. A Proclamation for well ordering His Majesties Court and Train in His Journey to Scotland, and return thence.

An. 1633.

to his loving Subjects, doth likewise hereby straightly charge and command, that none of his Majesties Servants, nor the Servants of any Noblemen, or others whatsoever, shall in the said Journey presume to take any Cart or Carts, but such as shall be delivered unto him, or them, by some of His Majesties Cart-takers, or their Deputies: And lastly, His Majesty's further Will and Pleasure is, that this His Royal Proclamation and the Directions hereby given and Commanded, shall likewise continue and remain in force for His Majesties Service and the good of his Subjects, in all other his Majesties future Journeys and Progresses whatsoever, the due observing whereof his Majesty expects from all his Loving Subjects, as they tender His Pleasure, and will avoid the Contrary at their Perils.

Protestant
Nunnery.

May the 13th. His Majesty having appointed the Lord Cottington to Sign all Pacquets, set forward from *London*, attended by the Earls of *Northumberland*, *Arundel*, *Pembroke*, *Southampton*, *Holland*, Marquess *Hamilton*, and other Nobles and Persons of Quality. In his Progress he stept a little out of the way to view a place at *Giddon* near *Stilton* in *Northamptonshire*, which by the vulgar sort of People was called a *Protestant Nunnery*. When His Majesty came to that place, he understood that it was by the Institution and Appointment of one Mrs. *Mary Farrar* Widow, aged about eighty years (who said she bid adieu to all fears and hopes of this World, and only desired to love God) and none were permitted to reside in her House and Family, but such as would devote themselves to that Course of Life, which she by her Order had appointed, to frequent Prayers at certain Hours, Morning, Noon, Evening and Night-time; they were to Eat by Measure and Drink by Quantity. Within the Chappel was a Rich Altar, Crucifix, Candles of White and Green Wax, and before they went to read Prayers they bowed three times before the Altar, as they went up and came down. Those that entred into that course of Life with them, were at liberty to use any Vocation within the House, as binding of Books, teaching of Scholars, others studying their Books. Lastly, the Foundress was pleased to add this Liberty and Priviledge unto any that entred into that Society, that if they had a mind to Marry, they should with freedom have liberty to depart.

His Majesties Gifts were settled to certain time and places before he set out from *London*, and *Welbeck* in *Nottinghamshire* being appointed as one Gift, the King in his Progress was Treated there at a Sumptuous Feast, by the Earl (since Duke) of *Newcastle*, estimated to stand the Earl in some thousands of pounds.

After the time that His Majesty parted from that Noble Earls Treatment, He met with great Reception by the way, and Sumptuous Feastings at *York*, where he made some stay, and at *Raby* Castle where Sir *Henry Vane*, His Majesties late Ambassador to the King of *Denmark* and *Swedland*, nobly entertained His Majesty. And at *Durham* several days that Bishop (Dr. *Morton*) most sumptuously entertained his Majesty; and the King going from thence, to the Town of *Newcastle*, that Place abundantly shewed their Duty and Affection in a Generous Entertainment of His Majesty.

After

After His Majesty parted from *Newcastle*, he hastened to *Barwick*, where Mr. *Widdrington* of *Graves-Inne*, Recorder of that *Town*, on the Second day of *June* entertained His Majesty in His Passage through that Place towards *Edenburgh* with this ensuing Speech.

9 Caroli.

Most Gracious and Dread Sovereign,

What the Noise of useless and obsolete Canons, what these strong yet desolate Walls, what the Reliques of sometimes warlike Souldiers, what the Ruines of a poor, yet ancient Borough, what all those would say, (if they could say any thing) and what all we your Majesties humblest and meanest Subjects desire to express with an unanimous and chearful Acclamation, is no more but this, That your Majesties Presence doth now bring as much Joy and Comfort to us all, as ever the loss of this Town of *Barwick* brought sorrow to the *English* or *Scottish* Nation.

June the 2.
Mr. Widdrington's Speech to the King at Barwick, in His Progress to Scotland, being Recorder of that Town.

It were unseasonable for us to represent to Your Majesties view, the Gloomy Cloud of our Pressures and Wants: No I need not do it; The Mite we are to cast into Your Majesties Treasury will quickly tell you them; We cannot do it, for that Cloud is suddenly vanished by the Radiant Beams of Your Sun-like Appearance. By whose approach these Rusty Ordnances, these Solitary Walls, these Souldiers, this now despicable Town, have all instantly received their former Life, Lustre, and Vigour; and hence we are induced to think, that this Year (being the Year of Your Majesties most Royal Progress) is likewise the Year dreamed on by *Plato*, wherein all things were to return to their former Life, Splendor and Excellency.

You have in Your Majesties Eye the Representative Body of the poor Town of *Barwick*, yet a Town (for *fuimus Troes*) that hath been the Delight, nay the Ransome of Kings, a true *Helena*, for which many Bloody Battels have been fought, lost, and regained several times, within the compass of one Century of Years. A Town the strongest Fortress of both Your Majesties most flourishing Kingdoms, yet upon each discord and dissention, banded as a Ball between them; if held in the Hands of one, then tossed by the other Kingdom, a Ball that never found rest until the happy Union.

A Town at this day as useless, as Arms in time of Peace, yet may serve for Your Majesty to cast your Eye upon, as a little Map of both Your great Kingdoms, as a participating of the nature of both, yet doubtful whether most beyond the ordinary Limits of the one, and without the Jurisdiction of the other Kingdom, but conspicuous in the Eye of both.

A Town neither wholly regulated by *English* or *Scottish* Laws, but by Customs and Usages in some things different from both; yet rather inclined to *English* Laws, and more affecting *Scottish* Fashions and Language, as being oftner saluted by the Rescripts of the one, and seeing and hearing oftner the other.

Although now *English*, and so hath continued since the time of King *Edw. 4.* yet such is our distance from the Center of the Kingdom, that the Lines of those Felicities now enjoyed by that Kingdom, by Your Majesties happy Government and Residence there, do not so happily Concenter in us.

An. 1633.

‘ We will know (as indeed who knoweth not) that Royal
 ‘ Blood running in Your Majesties Veins, to be Extracted from the
 ‘ most Renowned Kings of both these Kingdoms, and by those
 ‘ Kings, (Most Dread Sovereign) especially by Your Royal Father
 ‘ of ever Blessed and Happy Memory, hath this Town, though in
 ‘ the Skirts of either Kingdom, been richly Imbroidered, with ma-
 ‘ ny Priviledges, Franchises, and Immunities: And therefore we
 ‘ doubt not but Your Majesty, in whom each Man may behold the
 ‘ Worth of all Your Ancestors, You being no less Rightful Inheri-
 ‘ tor of their Vertues, than of their Crowns, will graciously main-
 ‘ tain what they have most benignly granted.

‘ But few words are best to be used to Kings, especially when they
 ‘ are spoken by an unskilful Orator. We dare boldly say, (Most
 ‘ Gracious and Mighty King) that our Hearts are better than our
 ‘ Tongues, being most of all unhappy in this, that they are linked
 ‘ with so bad Expressions.

‘ Yet we hope that Your Majesty may see in our Countenances,
 ‘ what you hear not so fully expressed by our Tongues; We humbly
 ‘ crave Your free Pardon of the one, and Your Gracious Interpreta-
 ‘ tion of the other,

‘ Your Majesty is now going to place a *Diadem* upon Your most
 ‘ Sacred Head, which God and Your own Right have long since
 ‘ given into Your Hands.

‘ Our humble Prayers are, That not only that, but all Your other
 ‘ Crowns, may be unto Your Majesty Crowns of Roses, without the
 ‘ mixture of any Thorns.

‘ And we most affectionately wish, That the Throne of King
 ‘ *Charles* the Great, and wise Son of our Brittish *Solomon*, may be
 ‘ like that of King *David*, the Father of *Solomon*, established before
 ‘ the Lord for ever.

The King took his Journey from *Barwick*, upon the 12th day of
June in the said Year, attended with his Retinue the *English* No-
 bility and others, and was met at the bound Road, near *Barwick*,
 by the most part of the Nobility of *Scotland*, and by the Gentry of
 the Sherifdomes of *Barwick*, *Tiveodale*, and the 3 *Lothians*, and
 many more of the Gentry of *Scotland* in very Noble Equipage, and
 well Mounted, amongst whom were a Troop of 600 of the Mers
 or *Barwickshire* Gentlemen relating to, or dependants upon, the
 Earls of *Homs* in Green Satten Dublets, and White Taffety Scarves.
 That night he lay at *Dunglas* (as House belonging to the Earls of
Home) served by his own Furniture and Provisions, in respect there
 was none at that time to represent the Earl of *Home*, there being
 pretentions for the said Estate depending betwixt the Heir-male of
 the said Family, and the Heirs of the Line.

Upon *Thursday* the 13th of *June* after Breakfast, he came from
Dunglas to *Seaton*, an House of the Earl of *Winton*’s, where he was
 nobly entertained by the Earl, and stay’d there till *Friday* the 14th
 of *June* after Dinner.

From thence he went to *Dalkeith*, a House then belonging to the
 Earl of *Morton*, Lord High Treasurer of *Scotland*, where he was
 also sumptuously entertained by his Lordship that night, and the
 next day at Dinner.

June

June the 15. on *Saturday* in the afternoon His Majesty came from *Dalkeith*, towards *Edenburgh*, (five Miles distant) and entred at the *West Port*, where he was Honourably received, the Keys delivered, and his Majesty attended by the Lord *Provost*, *Bailiffs* and *Aldermen* in their *Scarlet Robes*, others of the *Council* and *Grave Men* of the *City* in *Black Gowns* lined with *Velvet*, and *Young Men* said to be the number of 13 Score, cloathed in *White Satten Doublets*, *Black Velvet Breeches*, and *White Silk Stockins*, bearing rich *Partizans* and other *Arms*, the *Train-bands* of the *City* being ranged on each side the *Streets* through which His Majesty passed. There were great *Acclamations* of the *People*, being entertained with elegant *Speeches* at 5 several *Pageants*, viz. 1st. At the said *West-Port*, 2^d at the *West-bow*, 3^d at the *Old Tolbooth*, the 4th at the *Trone*, and the 5th at the *nether Bow*. The Ceremony of that *Pageant* at the *Tolbooth*, there was represented in *Effigie* the whole *Kings* in order that had *Reigned* in *Scotland* since the *Monarchy* of that *Kingdom*, even from *Fergus* the first, who himself was represented therein, making a *Prophetical Oration* of all his *Successors* till *Charles* the first the 108 *King*, and added, That as *Heaven* had propitiously maintained the *Successive Sovereignty* from him to *Charles*, so he predicted, That as many should succeed his *Successors*, as he had preceding *Monarchs* of this *Kingdom*; besides, there were several witty *Speeches* in *Verse*. 1st. Called the *Speech of Caledonia*, representing the *Kingdom*. 2^d. The *Song of the Muses at Parnassus*. 3^d. The *Speeches* at the *Horoscopol Pageant*, by the *Planets*, where first *Endymion* speaks, then *Saturn*, *Jove*, *Mars*, *Sun*, *Venus*, *Mercury*, *Moon*, and last again *Endymion* closes the Ceremony, all printed amongst the *Poems* of *Mr. William Drummond of Haythernden*.

It's here observed, That the whole *Scotch Nobility* did ride down the *Streets* according to their *Degrees* in *Order of Parliament*, next to them the *Houds*, the *Sword*, *Scepter*, and *Crown*; and immediately after the *King's Person*; And the *English Nobility* according to their several *Ranks* and *Degrees*, and His Majesty lighting at the *Abbey Church-door*, where *Mr. Andrew Ramsay*, a *Minister* of the *City*, made a very learned *Oration* to him in *Latin*. And from thence he went to his *Pallace of Hallyrood-house*.

June 16. being *Sunday*, he heard a *Sermon* at the *Chappel Royal*.

June 17. it being *Monday*, after *Dinner* His Majesty publicly created the *Earl of Angus* *Marquess of Douglas*, and *Chancellor Hay* *Earl of Kinnoul*, and presently after went in his *Coach* to the *Castle of Edenburgh*, and there was worthily entertained that night by the *Earl of Marr* *Governor* of the *Castle*.

The 18 of *June*, being *Tuesday*, was the *King's Coronation* day, where all his *Noble Officers of State* attended the *King's Majesty* in their *Robes* from the *Castle* to the *Abbey Church*, according to their *Degrees*, and the *Honours Vest*, *Sword*, *Scepter*, and *Crown* carried after the accustomed manner, lighting at the *Church-door*, and assuming their respective *Places*, a *Sermon* was *Preached* by *David Lindsey* then *Bishop of Brechin* upon these words, 1 *Kings* 1. 39. And all the *People* said, *God save King Solomon*.

An. 1633.

After Sermon they proceeded to the Coronation, attended with all the usual Ceremonies thereof. It was observed, that Dr. *Laud*, then Bishop of *London*, who attended the King, (being a stranger) was high in his carriage, taking upon him the order and managing of the Ceremonies and Coronation, and for an Instance, *Spotswood* Archbishop of *St. Andrews* being placed at the King's Right Hand, and *Lindsey* then Archbishop of *Glasgow* at his Left, Bishop *Laud* took *Glasgow*, and thrust him from the King with these words; *Are you a Church-man and wants the Coat of your Order*, (which was an Imbroidered Coat, and that he scrupled to wear being a moderate Church-man) and in place of him put in the Bishop of *Rosse* at the King's Left Hand.

At this time the Lords and Nobles of *Scotland*, seemed to stand well and equally in the King's Favour, till after the Parliament (especially the Duke of *Lenox*, and the Marquess of *Hamilton*.)

June the 19 *Wednesday* was a day of Rest, the Bands of the City disciplined in the Palace-yard before the King and His Nobles.

June the 20 *Thursday* the Parliament rode in order from the King's Palace to the *Parliament-house*, the Honours carried, and all Ceremonies observed, as was accustomed. *Spotswood* Archbishop of *St. Andrews* Preached; the King made his Speech, and the Parliament proceeded to choose the Lords and Members of the Articles, according to their usual manner; the Bishops being to Nominate the Temporal Lords, there were elected 3 Lords suspected to be Popish. These Lords and Members of the *Articles* consisting of 8 of the Clergy, 8 of the Nobility, and 8 Barons, and 8 Burgeses. The manner of Election was thus:

1. The Noblemen elect the Clergy.
2. The Clergy elect and chose the Noblemen.
3. The Elect Clergy and Noblemen chose the Barons.
4. The Elect Clergy, Nobility and Barons chose the Burgeses.

Besides the Officers of *State* make up that Body which devise, contrive, and form all Acts that are to pass in Parliament; and being so presented, are passed without difficulty. These Members of the Articles convened daily, till the 28 day of *June*, and in the general, what the King proposed, was granted: And on *Friday* the 28 of *June* the whole Parliament met, and passed the several Acts, which the *Articles* had so prepared, being 31 publick printed Acts, besides 176 private Acts not printed, such as respect particular Persons and Things are promiscuously titled *Acts*, *Protestations*, *Ratifications*, *Commissions*, &c.

The 1 and 21 Acts gave the King very great Sums of Money, viz. The one a Subsidy or Taxation of *Thirty Shillings* of every Pound Land of old Extant for 6 years to be paid at every Term of *Martinmas*, and also the 16 Penny of all Annual Rents, or Interest of Money, (the same being then at 10 *l. per Cent.*) and that for the like space of 6 years to be paid Termly at *Whitsontide* and *Martinmas* equally during that time.

The other Act reduced the Interest of 10 *l. per Cent.* to 8 *l.* to be observed as a Law amongst the Lieges, but in consideration thereof the King was to have 2 *l.* out of the 10 *l.* formerly paid, and that for the space of three years; all these made a very great Taxation.

Vide a List of
Printed Acts.

In this *Parliament* there was little or no difference, except in what related to two *Acts*, viz. 3d and 4th, the one entituled an *Act anent His Majesties Royal Prerogative, and Apparel of Kirkmen*. The other an *Act of Ratification of the Acts touching Religion*.

9 Caroli.

Vide the Acts.

As to the former of these *Acts*, several Noblemen and others were not pleased to have the Apparel of *Kirkmen* joyned with the Prerogative, suspecting the *Surplice* to be intended; and the King being asked that Question, made no answer. But this Circumstance was observed of him, that he took a List of the whole Members out of his Pocket, and said, Gentlemen, *I have all your Names here, and I'll know who will do me service, and who will not, this day*. However about 13 Noblemen, and as many *Barons* and *Burgesses* declared, That they agreed to the Act for His Majesties Prerogative, but dissented from that part of it, as to the Apparel of *Kirkmen*.

The King said he would have no distinction, but commanded them to say *I*, or *no*. Upon which those Lords and others before mentioned declared themselves particularly, that they did dissent from that *Act* as it was conceived; as to the other *Act* annent Religion, the same dissenting Lords and Gentlemen declared, That they agreed to the Ratification of the Laws annent the true Protestant Religion, as it was established in Doctrine, and an Act of this nature passed in King *James* the 6th of his Reign, His Majesties Royal Father, when *Archbishops*, *Bishops*, &c. were opposed, but now they were governing and included, therefore they dissented from that part; and being again commanded to say *I*, or *no*, the said Nobles and others dissented as formerly.

Amongst the *Peers* that dissented were *John* Earl of *Rothes*, *John* Earl of *Cassils*, *William* Earl of *Lothian*, and the Lords *Lindsey*, *Porplichin*, *Sinclar*, *Balmerino*, *Cooper*, *Yester*, and 4 more. The Passing of the Act concerning Ecclesiastical Habits, did much perplex the Dissenting Lords and others, which occasioned some of them to Divulge in Writing a Paper reflecting upon his Majesty, (adjudged afterwards to be a Libel) wherein was contained this Reflection, how grievous a thing it was for a King in that place, by making of the Subjects Votes, to Over-awe his Parliament: And that the same was a breach of Privilege, &c. This Writing, as afterwards appeared, was Drawn by one *William Hagg*, who fled for it, but being found in the Custody of the Lord *Balmerino*, that Lord, by the instigation of Archbishop *Spotswood*, and others of the Privy Council, was in a Court of his *Peers* found guilty of concealing *Treason*, and therefore condemned to lose his Head, but afterwards pardoned by His Majesty.

The Parliament being Dissolved upon *Friday* the said 28. day of *June*, the King staid *Saturday* and *Sunday*, and observed the Dissenters with an unfavourable Aspect.

Upon *Monday* the 1. of *July*, the King takes his Progress to his Palace at *Linlithgow*. *Tuesday* the 2. to *Strivling*, being presented with Plate by each *Provost*, one of whom being a Dissenter, was not admitted to Kiss his Hand.

Upon

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Upon *Wednesday* the 3^d he went to *Dumfermlin*, and *Thursday* the 4th to *Falkland*. Note, that the Nobility and Gentry of *Fiffe* had prepared to give a Noble Reception to His Majesty, but many of them being Dissenters, His Majesty was pleased to take another way, and avoided them.

Friday and *Saturday* the 6. and 7. of *July*, the King hunted in his Park of *Falkland*, and there every *Sunday*, *Maxwell* Bishop of *Rosse* Preached before His Majesty.

Munday the 8. the King went to *St. Johnston*, and was nobly entertained by the Earl of *Kinoul* (then Lord *High-Chancellor*) that night at Supper, and the next day at Dinner, and returned from *Scoon* to *Falkland*.

Wednesday the 10, the King with his Nobles and Retinue, took Boat at *Brunt-Island* to come to *Leith* (being 7 Miles over) in a calm Season about the mid-day. But presently after the Boats put to Sea, arose a violent Storm and Tempest, (though none at Land) to the great hazard of His Majesty, and many others; the King passing to a Ship, a Man of War of his in the Road, with much difficulty, weathered it, quit his former Boat, and took the Ship and Boat to *Leith*, and there Landed after great Danger; one of the Boats in the King's Presence being over-set, or turned over, perished with the King's Plate, and near 20 Persons, of which number were one *Lewis Somervell* and *Alexander Naper*, who had the charge of the Silver Plate and Vessels, and 3 Persons were saved sitting upon the Keile coming in to Shoar upmost.

Thursday the 11 the King staid at his *Palace of Hallyrood-house*.

Upon *Friday* the 12 he went to *Dalkeith*, where he staid that night.

Upon *Saturday* after Dinner, he went to *Seaton-house*, staid that night and Sabbath-day.

Munday after Dinner he went from *Seaton* to *Innerwicke*, an House of *James Maxwell*, after Earl of *Dirlington*, and was richly entertained.

Tuesday His Majesty and Train went from *Innerwicke* to *Barwick*, &c.

A Table of the printed Acts and Laws past in this first Parliament, of Our Sovereign Lord King Charles the First.

1. **A** Nent the Taxation granted to His Majesty of Thirty Shillings Termly upon the Pound-land, and the Sixteenth Penny of all Annual Rents, the one for 6 Years, and the other for the same Term.

2. Anent the Collecting, and in-bringing of the Taxation, and Relief to Prelates.

3. Anent His Majesties Royal Prerogative, and Apparel of Kirkmen, Ratification, or the Acts touching Religion.

5. Ratification of the Act of Council, anent the Plantation of Schools.

6. Anent the inverting of Pious Donations.

7. Anent invading of Ministers.

8. Rati-

8. Ratification of the Act of Commission, anent the Ministers Provisions. 9 Caroli.

9. The King's general Revocation.

10. Anent annexation of His Majesties Property.

11. Act of Dissolution.

12. Ratification of the Acts of Interruption.

13. Anent Regalties of Erections.

14. Anent Superiorities of Kirke-lands.

15. Anent His Majesties Annuity of Tythes.

16. Anent Vassals holding *Ward*.

17. Anent the Rate and Price of Tythes.

18. Anent the *Exchequer*.

19. Commission for Valuation of Tythes not valued, rectifying the Valuation of the same already made, and other Particulars therein contained.

20. Anent the King his Designation of the Names to be inserted in the Commissions anent the Tythes and Laws.

21. Anent the Annual of 8. to be taken of every Hundred in time to come, alennerly suspending the same for 3 years, and in the interim, Two of Ten to be paid for the said space to His Majesty.

22. Anent the Lords of the *Session*, their Taxation of Ten Shillings to be imposed upon every Pound-land of old Extent.

23. Ratification of the Liberties of the *College of Justice*.

24. Ratification of the Privileges of the free Royal Burroughs.

25. Ratification of the Acts made in favour of the Justices of Peace, and their Constables, and Commission to the Lords of *Secret Council* there-anent.

26. Explanation of the Acts of Parliament made in favour of the Lords of *Session*, anent Twelve Pennies of the Pound to be paid in Decrees given by the Lords hereafter.

27. Act of Pardon to Penal Statutes.

28. Ratification in favour of the Viscount of *Strivling* of the Infeftments and Signature granted to him of the Dominions of new *Scotland* and *Canda* in *America*, and Privileges therein contained, and of the Dignity and Order of *Knight-Baronets*, and Act of *Convention of Estates* made there-anent.

29. Act in favour of the Earl of *Morton*, and the Lord *Dalkeith* his Son, and the *Loch* of *Levin*, and preservation of the Fishing thereof.

30. Act anent the *Clan-Greigours*.

31. Act in favour of His Majesty and Lieges, intitulate, *jure salvo cujuslibet*.

Act 3 anent His Majesties Royal Prerogative, and Apparel of Kirk-men.

‘**O** Ur Sovereign Lord, with advice, consent, and assent of the whole Estates, acknowledging His Majesties Sovereign Authority, Princely Power, Royal Prerogative and Privilege of his Crown, over all Estates, Persons and Causes whatsoever within this Kingdom, ratifies and approves the Act of Parliament made in the Year 1606, anent the *King's Royal Prerogative*, and
‘per-

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perpetually confirms the same, for his Highness, his Heirs and Successors, as amply, absolutely, and firmly in all respects as ever any of His Majesties Royal Progenitors, did possess and exercise the same; and withal remembering, that in the Act of Parliament made in the Year 1606, anent the Apparel of Judges, Magistrates, and Kirk-men, it was agreed, That what Order soever His Majesties Father of Blessed Memory should prescribe for the Apparel of Kirk-men, and send in writ to his *Clerk of Register*, should be a sufficient Warrant for inserting the same, in the Books of Parliament, to have the strength of any Act thereof, have all consented that the same Power shall remain what the Person of Our Sovereign Lord and his Successors that now is, and what the same Clause for execution thereof, as in the said Act contained.

Act 4. Ratification of the Acts touching Religion.

Our Sovereign Lord, with advice and consent of the Estates, ratifies and approves all and whatsoever Acts and Statutes made before anent the Liberty and Freedom of the true Kirk of God, and Religion presently professed within this Realm, and ordains the same to stand in their full Force and Effect, as if they were specially mentioned and set down herein.

Articles of Inquiry in the Visitation of the Bishop of Winchester.
* Dr. Neal.

IN the Month of *June* came forth in Print, Articles to be inquired of, by the Church-wardens and Sworn Men within the Diocese of *Winchester*, in the Primary Visitation of the Right Reverend Father in God * *Walter* Lord Bishop of *Winchester*, holden in the Year of Our Lord God 1633.

The Oath to be Administred to the Church-wardens and Sworn Men.

You shall Swear, That you and every of you, without all Affection, Favour, Hatred, hope of Reward and Gain, or fear of Displeasure or Malice of any Person, shall Present all and every such Person and Persons of or within your Parish, who hath committed any Offence, Fault or Crime, or omitted any part of Duty, which be enjoined to perform: Wherein you shall deal uprightly, and according to Truth; neither of Malice Presenting any contrary to Truth, nor of Corrupt Affection sparing to Present any, and to Conceal the Truth; having in this Action God before your Eyes, with an earnest Zeal to maintain Truth, and suppress Vice. So Help you God, and the Contents of this Book.

First, As to the Articles concerning the Church, they are to enquire, Whether they have the Book of Constitutions or Canons Ecclesiastical, and a Parchment Register-Book, Book of Common-Prayer, and Book of Homilies, &c. And whether the Communion-Table be placed in such convenient sort within the said Chancel or Church, as that the Minister may be best heard in his Prayer and Administration.

As

As to the Articles concerning the Clergy, Whether doth the Minister read the Constitutions set forth by His Majesty, once every Year?

Whether the Minister or Preacher use to pray for the King's Majesty with his whole Title, as King of *Great Britain*? And doth he in like manner pray for the Arch-Bishops and Bishops? And doth he observe all the Orders, Rites, and Ceremonies prescribed in the Common-Prayer, and Administring the Sacrament? And whether doth the Minister receive the Sacrament, kneeling at the same, and Administred to none but such as do kneel? as by the 12th Canon is directed.

Whether hath the Minister admitted to the Communion any notorious Offenders or Schismatics? contrary to the 26th and 27th Constitution. And whether Strangers of any other Parish do come often and commonly to your Church, from their own Parish Church? contrary to the 28th Canon. And whether doth the Minister use to Sign the Children with the Sign of the Cross when they are Baptized? And whether is your Minister a Licenced Minister? if yea, then by whom? And whether doth the Minister wear the Surplus whilst he is saying the Publick Prayers, and Administring the Sacraments? Whether doth the Minister Catechize and Instruct the Youth of Ignorant Persons of your Parish in the Ten Commandments, &c. And whether he doth Solemnize Marriage, the Banns not being 3 several Sundays and Holidays first Published in time of Divine Service? And whether doth your Minister in the Rogation days use the Perambulation of the Circuit of the Parish? Whether doth the Minister every 6 Months Denounce in the Parish all such as do persevere in the Sentence of Excommunication, not seeking to be absolved? or hath he admitted any Excommunicated Person into the Church without Certificate of Absolution? Whether is your Minister a favourer of Recusants, whereby he may be suspected not to be sincere in Religion? Whether is your Minister noted to be an incontinent Person, a Frequenter of Taverns, Ale-houses, a Common Gamester, or a player of Dice, &c. With divers other Articles of Enquiry.

The rest of the Articles are concerning School-masters, Ecclesiastical Officers, Parishioners, and others of the Laity. But see them more at large in the *Appendix*; as also those other Articles which other Bishops in their several Diocesses did put forth after the first Metropolitall Visitation in the Year 1634, and 1635, which were observed to be of a far higher Strain and Enquiry, than these of *Winchester*.

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Pasch. 9 Car.

Star-Chamber.
Blackhall vers'
Bullock & al'.

Oppressions by
Suits.

Pulled down
a Witnesses
House in re-
venge.

100 l. Dam'.

THE Defendant, Sir *Edward Bullock*, having a covetous desire to enclose a certain Common or Wast-ground in *Westbilne Com' Norfolk*, containing about 1000 Acres, wherein the Plaintiff had Common of Pasture, gave out Speeches, That he would make the Plaintiff run the Country, if he would not sell his Lands to the said Defendant, for that then he could inclose the said Common, and would make him weary of his Leases if he would not yield them up, and would make him weary of Suits: And in pursuance thereof, one of the Defendants, who is fled, did set open a Gate of the Plaintiff, which before was staked up, and broke divers Coppies in the Plaintiff's Hedges, so that his Cattle went into the said Common, and then Sir *Edward* Sued the Plaintiff for that Trespass, and forced him to 3 Tryals at Law for 3 Roods of Land before he would suffer him to enjoy them. And the Plaintiff having brought an Action to Tryal against Sir *Edward*, wherein he used the Testimony of 4 Witnesses, the Defendant being discontented that the Verdict passed against him; swore he would be revenged on all the Rogues, the Plaintiff's Witnesses, who testified against him. And in pursuance thereof, he afterwards sent for one of them to his House, and kept him in talk, and in the mean time caused the Defendant *Boydon*, and two other of his Servants, to hew and pull down his House, there being no body left therein but a Child, who ran out naked, and the Plaintiff his Wife great with Child, and their Children were forced to lye in the Streets a night or two, none daring to take them into their Houses for fear of Sir *Edward*. And they being after received into a House by the direction of a Justice, the said Sir *Edward* did so threaten them in whose House they were, that they for fear turned them out of Doors, and all the Winter after they lay in an Out-house, where no fire could be kept, insomuch that he, his Wife, and one Child perished and dyed. And the Defendant meeting another of the said Witnesses, beat her with a stick until she was black and blue from the Waste upwards, and not able to put on her Cloaths a month after: And threatned another of the Witnesses to fire his House over his head, or pull it down if he would not leave it. And the Defendant *Tassel*, by colour of a supposed Warrant to Arrest one *Wales* the Plaintiff, being accompanied with two others, did break open his doors, and pull him out of his House, and kept him Prisoner 3 hours; and for these Offences they were all committed to the Fleet, Sir *Edward Bullock* fined 1000 l. *Boyden* 50 l. and *Tassel* 50 l. *Bullock* to pay the Plaintiff 100 l. Damage, and out of that to make some reparation to his Children whose House was pulled down.

The

The D E C R E E.

In Camera Stellata coram Concilio ibidem vicefimo tertio die Augusti Anno Nono Car' Reg' &c.

23 August.
9 Car. 1633.

W Hereas His Majesties Attorney General hath informed this Court, That the King's most Excellent Majesty, by his Highness's Letters Patents under the Great Seal of England, bearing Date at Westminster the 17 day of December in the 7 Year of His Majesties Reign, for the Reasons, Causes, and Considerations in the said Letters Patents expressed, did give and grant to Roger Jones since deceased, and to Andrew Palmer Esq; and also to Sir William Ruffel Baronet, Sir Basile Brooke, Sir Richard Weston, Sir Edward Stradling, Sir Richard Bettison Knight, George Gage, Thomas Jones, Beverly Bretton, Thomas Ruffel, Thomas Jennings, Thomas Hicks, and Albertus Belton Esq; and to Robert Carver Gent. a Patent of Privilege for the term of 14 Years, for the sole making of hard Sope and soft Sope, with such Materials as by them have been newly Invented, and in such manner as in the said Letters Patents, and other Letters Patents, therein recited appeareth, and for the buying and repairing of Pot-Ashes, and other Ashes of Bean-straw, Pease-straw, Ferne, Kelp, and other Vegetables to be found in his Majesties other Dominions for the making of Soap, not formerly or ordinarily used or practised by others within the said Realm, Dominions, and Town of Barwick, but by them newly invented and devised; and also of the using of the Assay-Glass for trying of their Lee: In and by which Letters Patents there was careful Provision made for the true making of the said Soaps for the use of the King's People, and for the searching and making thereof to distinguish the same from other Soaps, and for the selling of the same at and for reasonable Prices, as by the said Letters Patents do at large appear. And His Majesties said Attorneys further informed this Court, That because His Majesty in his great Wisdom foresaw that without Government of that Trade it would soon fall to disorder; therefore for the better regulating and ordering of the said Works, His Majesty did by other Letters Patents under the Great Seal of England, bearing Date at Westminster the 20th day of January, in the 7th Year of His Majesties Reign, incorporate divers Persons of Principal Worth and Quality, who had been Adventurers in the said Work by the Name of the Governours, Assistants, and Fellows of the Society of Soap-makers within the City of Westminster, in the County of Middlesex, to have perpetual Succession, and to them had given and granted divers Powers and Authorities, for the preventing of Frauds and Deceits and other Abuses in that Trade and Manufactures; and afterwards by His Majesties special Commandment signified by his Writ in that behalf, the said Grant of Privilege for making of Soap and Pot-Ashes, with the Powers and Authorities of the said Patentees named in the same Patent of the 17th of December, granted as aforesaid, were by them assigned unto the said Governours, Assistants, and Fellows, and their Successors; and in respect thereof the said Governours, Assistants, and Fellows of the said Society, by Indenture

A Sentence in Star-Chamber, concerning the Soap-Patent.

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denture bearing Date the 3d day of May in the eighth Year of His
 Majesties Reign, did covenant, promise and agree to and with Our said
 Sovereign Lord the King, his Heirs and Successors, to do and perform
 divers things in that Indenture particularly mentioned, for and con-
 cerning the perfecting of the said Work, and the furnishing of the said
 Kingdom with sufficient Quantities of sweet and good Soap, and to
 sell the same at and for reasonable Prices, not exceeding the Price of
 three pence the Pound, which was a cheaper Rate than other sweet and
 Merchantable Soap was usually sold for. And His Majesties said At-
 torney General further informed this Court, That when His Majesty
 had provided for the sufficient quantity and reasonable Prices of the
 said Soaps, out of his Princely care for the good of his People, fore-
 seeing that the goodness of the said Soaps may soon decline and decay,
 unless by the continual care and pains of some Trusty and Diligent Offi-
 cer, a watchful Eye were had to search and try all the Soaps that should
 be made and uttered, to see that the same were answerable in goodness
 to the first Pattern or Standard; His Majesty, by other Letters Pa-
 tents bearing Date the 8th day of June in the Eighth Year of His
 Majesties Reign, did ordain, constitute and appoint, That for ever
 then after there should be an Office. And did thereby, for him, his
 Heirs and Successors, erect, create, and make an Office to be and
 to be called the Office for keeping the Patterns, and making of the
 Assay of Soaps to be made by the said Governour, Assistants, and Fel-
 lows, who shall be called the Assay-Master for Soaps to be made by the
 said Governour, Assistants, and Fellows, and thereby did appoint in
 what manner the said Officer, having first taken a Corporal Oath to that
 purpose, should execute the said Office without any trouble or charge to
 His Majesties Subjects which should buy the said Soaps. And His Maje-
 sties said Attorney further informed this Court, That His Majesty in
 his Royal Care for the Wealth and Prosperity of his loving Subjects, in-
 tending to advance the Native Commodities of this Realm, the setting
 of his own People on work, and the saving of the Expence of the
 Treasure of this Kingdom, which unthrifstily and unnecessarily was
 spent in buying and importing of forrein Materials, for the making of
 Soap from other Kingdoms, to the enriching of them, and the impo-
 verishing of His Majesties own Kingdom, to a great yearly Sum, and
 purposing to prevent, or severely to punish all Frauds or Deceits in the
 making of Soap with Forreign or Unsweet Materials, and the Excessive
 Rates in the sale of Soaps, as formerly it was practised by the Sope-
 boilers, being no Body-Politique, nor Governed by any good Orders or
 Constitutions regulating their Trade, but being a few singular Persons,
 who took the advantage to enrich themselves to the wrong and prejudice
 of his Majesty, and his Loving Subjects in general, who had no ordi-
 nary means to right themselves therein, to the end that all his Loving
 Subjects might take notice of this his Princely Care and Providence for
 them herein by his Highness's Proclamation, given at the Court at
 Greenwich, the 28th day of June in the said Eighth Year of His
 Majesties Reign, did straitly charge and command as well the said Go-
 vernour, Assistants, and Fellows of the said Society, who had former-
 ly bound themselves by Covenant with his Majesty to a Regularity in
 that behalf, as all others not being of that Society which should then
 after make any Soaps, that they should use no other Oyl in making that
 Soap but Oyl-Olive and Rape-Oyl, as had been long since decreed by the
 Mayor

May^r and Aldermen of London, that by that means the Soap might be Good, Sweet and Serviceable Soap, according to the Patterns delivered.

9 Caroli.

After the King's arrival at London from Scotland, His Majesty on the 13th of August thought fit to prevent abuses growing by the unordered Retailing of Tobacco, taking notice to his Subjects, that the Plant or Drugg called Tobacco, scarce known to this Nation in former times, was in this age usually brought into this Realm in small quantities as Medicine, and so used, but in process of time to satisfy the inordinate Appetite of a great number of Men and Women, it hath been brought in great quantities, and taken for Wantonness and Excess, and therefore His Majesty thinks of some means for the preventing of the evil consequence of this immoderate use thereof; it is therefore resolved to reduce the Vending, Selling and Uttering of Tobacco by Retail into some good Order, and to that purpose gives several Rules and Directions in this Proclamation, that none do sell the same, but such as shall receive Licence.

Also at the same time His Majesty took care for the Use of the Bow and the Pike together in Military Discipline, giving notice to the People, That in former times Bowes and Arrowes have been found serviceable Weapons for War, whereby great and victorious Conquests have been gotten. By sundry Statutes, the use thereof hath been enjoyned, which Statutes are still in Force; the King expecting that his Subjects conform themselves thereunto, knowing the exercise of shooting to be a means to preserve Health, Strength, and Agility of Body; the King hath therefore under the Great Seal, Authorized William Nead, an antient Archer, who hath presented to the King and Council a War-like Invention with the Use of the Bow and Pike together, Requiring that the Trained Bands be Instructed by the said Nead.

Oatlands,
August 22.

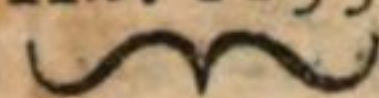
In the beginning of October there were complaints made to the Council concerning Ales and Revels upon the Lord's Day in Somersetshire, which gave occasion to arraign an Order made by the Lord Chief Justice Richardson and Baron Denham in their Circuits in that County, which Order was to this purpose,

Whereas divers Orders have been made heretofore by the Judges of Assize, for the suppressing of all Ales and Revels, the same Order is now confirmed at the Assizes, and again ordered by the Court in regard of the Infinite Number of Inconveniences, daily arising by means of Revels, that such Revels, Church-Ales, Clerk-Ales, and all other Publick Ales be henceforth utterly suppressed, and to the end this may be observed, it is further Ordered that the Clerk of the Assizes shall leave Copies thereof, with the Minister of every Parish, within his several Hundred, and shall give a Note under his Hand, that he shall Publish it yearly within the Parish the first Sunday in February, and likewise the two Sundays before Easter yearly.

An Order to
suppress Ales
and Revels in
Somersetshire.

The Arch-Bishop of Canterbury hearing of this Proceeding of the Judges in Church Affairs, and imposing upon the Ministers to Publish

An. 1633.



lish their Order in the Parish Church without the Consent of the Bishop of that Diocess, complained thereof to the King, and the Chief Justice was Commanded to attend the Board, where after the Arch-Bishop had made his Complaint against the Lord Chief Justice, he was Commanded to Revoke the former Order made at the *Affizes* against *Revels*, &c.

The Chief Justice Replied, that the *Order* was made at the Request of the Justices of the Peace in the County, with the General Consent of the whole Bench, and upon view of divers antient Presidents in that kind; but nevertheless he was Commanded to Revoke his Order.

Upon which Occasion the Arch-Bishop of *Canterbury*, on the 4th of *October* writ a Letter to the Bishop of *Bathe* and *Wells* concerning the said *Revels*, to this Effect.

A Letter from the Arch-Bishop of *Canterbury* to the Bishop of *Bathe* and *Wells* about *Wakes* and *Revels*.

That there hath been of late some Noise in *Somerfetshire* about the Feasts of the Dedications of Churches, commonly called the *Wakes*; and it seems the Judges of *Affize* formerly made an Order to prohibit them, and caused it to be Published in some, or most of the Churches; thereby the Minister, without my Lord the Bishop's Consent or Privity, the pretence of this hath been, that some disorders derogatory from God's Service, and the Government of the Commonwealth are committed at those times: by which Argument, any thing that is abused may quite be taken away. It seems there hath been some heat struck in the Country about this, by the carriage of the Lord Chief Justice *Richardson*, at the two last *Affizes*, especially the last, with which His Majesty is not well pleased. And for the preventing of Outrages, or Disorders, at those Feasts, no Man can be more careful than his Majesty; but he conceives, and that very rightly, that all these may and ought to be prevented by the Care of the Justices of Peace, and leave the Feasts themselves to be kept, for the Neighbourly meeting, and Recreation of the People, of which he would not have them debarred under any frivolous pretences. And further, His Majesty hath been lately informed by Men of good Place in that County, that the Humourists increase much in those Parts, and unite themselves by banding against the Feasts; which course, as His Majesty no way likes, so he hath been informed also for this last Year, since warning was given, there have not been any noted Disorders at any of those Feasts kept in those Parts; yet for His better satisfaction, He hath Commanded me to require you to inform your self, and give a speedy account how these Feasts have been ordered, &c.

The Lord Chief Justice *Richardson* revokes his Orders about *Ales* and *Revels*.

THe Lord Chief Justice *Richardson* after his Reproof at the Council Table, did at the next *Affizes* inform the Justices, Grand Jury, and Country, that those Good Orders made by him and his Brother *Denham* for suppressing unruly *Wakes* and *Revels*, wherein he thought he had done God, the King, and the Country good Service, are to be revoked, and that some ill-affected Persons had misinformed His Majesty concerning this Order, who had given him exprefs Command to reverse it, being not made by himself alone, but with the joint consent of the whole Bench; so he declared to the Bench, that in pursuance of Command he did as much as in him lay revoke the said Order, and caused the Clerk of the *Affizes* to enter the Order verbatim, reciting former Orders made upon

upon that occasion, and declared them to be void and null, and that all persons may use such Recreations at such meetings.

The *Justices of Peace* being troubled at the Revocation of these Orders, drew up a Petition to the King shewing the great Inconveniences that would befall the Country if these Meetings and Assemblies of Church-Ales, Bid-Ales and Clerk-Ales, condemned by the Laws, should now be set up again: which Petition was Subscribed by *John Lord Paulet*, *Sir William Portman*, *Sir John Stowell*, *Sir Ralph Hopton*, *Sir Francis Popham*, *Sir Edward Rodney*, *Sir Francis Doddington*, *Sir Jo. Horner*, *Edward Paulet*, *William Basset*, *George Speke*, *John Windham*, *Thomas Lutterell*, *William Walrone*, and divers others; but before this Petition was delivered to the King, it was prevented by the coming forth of the King's Declaration concerning Lawful Sports, His Majesty giving this ensuing Warrant for the same.

Charles Rex,

Canterbury, see that our Declaration concerning Recreations on the Lords Day after Evening Prayer, be Printed: And accordingly on the 18th of October this Year it came forth in Print, and was to this Effect.

That King *James* of Blessed Memory, in his return from *Scotland*, coming through *Lancashire*, found that his Subjects were debarred from Lawful Recreations, upon *Sundays* after Evening Prayers ended, and upon Holy days. And he prudently considered, that if these times were taken from them, the meaner Sort, who labour hard all the Week, should have no Recreations at all, to refresh their Spirits. And after His return, He further saw, that His Loyal Subjects in all other parts of His Kingdom, did suffer in the same kind, though perhaps not in the same Degree: and did therefore in His Princely Wisdom, publish a Declaration to all his Loving Subjects, concerning Lawful Sports to be Used at such times, which was Printed and Published by His Royal Commandment in the Year 1618. in the Tenor which hereafter followeth.

Whereas, upon His Majesties return the last Year out of *Scotland*, he did publish his Pleasure, touching the Recreations of His People in those Parts, under his Hand. For some Causes Him thereunto moving, hath thought good to Command these His Directions then given in *Lancashire*, with a few words thereunto added, and most applicable to these parts of the *Realmes*, to be published to all his Subjects.

Whereas he did justly in his Progress through *Lancashire*, rebuke some Puritans and Precise People, and took order that the like unlawful carriage should not be used by any of them hereafter, in the prohibiting and unlawful punishing of his good People for using their Lawful Recreations, and Honest Exercises upon *Sundays*, and other Holy days, after the Afternoon Sermon or Service, His Majesty hath now found that two sorts of People wherewith that Country is much infected, *viz.* Papists and Puritans, hath maliciously traduced and calumniated those his Just and Honourable Proceedings:

9 *Caroli.*

The Justices of Peace troubled at the Revocation.

The King's Majesties Declaration to his Subjects concerning Lawful Sports to be Used, issued forth the 18th of October 1633.

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Proceedings: And therefore lest his Reputation might upon the one side (though innocently) have some Asperſion laid upon it, and that upon the other Part, his good People in that Country be miſſed by the miſtaking and miſinterpretation of his meaning, His Maſteſty hath therefore thought good hereby to clear and make his Pleaſure to be manifeſted to all his good People in thoſe Parts.

It is true, that at his firſt entry to this Crown, and Kingdom, he was informed, and that too truly, that his County of *Lancaſhire* abounded more in Popiſh Recuſants, than any County of *England*, and thus hath ſtill continued ſince, to his great regret, with little amendment, ſave that, now of late, in his laſt riding through his ſaid Country, hath found both by the Report of the Judges, and of the Biſhop of that *Diocēſs*, that there is ſome amendment now daily beginning, which is no ſmall contentment to His Maſteſty.

The report of this growing amendment amongſt them, made His Maſteſty the more ſorry, when with his own Ears he heard the general Complaint of his People; that they were barred from all Lawful Recreations, and Exerciſe upon the Sundays after Noon, after the ending of all Divine Service, which cannot but produce two Evils: The one the hindring of the Conversion of many, whom their *Prieſts* will take occaſion hereby to vex, perſwading them that no honeſt Mirth or Recreation is Lawful or Tolerable in Religion which the King profeſſeth, and which cannot but breed a great diſcontentment in his Peoples hearts, eſpecially of ſuch as are peradventure upon the point of turning: The other Inconvenience is, that this Prohibition barreth the Common and Meaner ſort of People from Uſing ſuch Exerciſes, as may make their Bodys more able for War, when His Maſteſty or his Succeſſors, ſhall have occaſion to uſe them. And in place thereof ſets up Tipling and filthy Drunkenneſs, and breeds a number of idle and diſcontented Speeches in their Ale-houſes. For when ſhall the Common-people have leave to exerciſe, if not upon the Sundays and Holy-days, ſeeing they muſt apply their labour, and win their Living in all Working-days?

The King's expreſs pleaſure therefore is, that the Laws of this Kingdom, and *Canons* of the Church be as well obſerved in that County, as in all other places of this his *Kingdom*. And on the other Part, that no Lawful Recreation ſhall be barred to his Good People, which ſhall not tend to the Breach of the aforeſaid Laws, and *Canons* of his Church: which to expreſs more particularly, His Maſteſties Pleaſure is, That the Biſhops, and all other inferior Churchmen, and Church-wardens, ſhall for their Parts be Careful and Diligent, both to inſtruct the Ignorant, and convince and reform them that are miſſed in Religion, preſenting them that will not Conform themſelves, but obſtinately ſtand out, to the Judges and Juſtices: whom he likewise commands to put the Laws in due Execution againſt them.

His Maſteſties Pleaſure likewise is, That the Biſhop of that *Diocēſs*, take the like ſtrict Order with all the Puritanes and Preciſians within the ſame, either conſtrain them to Conform themſelves, or to leave the Country according to the Laws of this *Kingdom*,

Kingdom, and Canons of this Church, and so to strike equally on both hands, against the Contemners of his Authority, and Adversaries of the Church; and as for his good Peoples lawful Recreation, his Pleasure likewise is, that after the end of Divine Service, his good People be not disturbed, letted or discouraged from any Lawful Recreation, such as Dancing, either Men or Women; Archery for Men, Leaping, Vaulting, or any other such harmless Recreation, nor from having of *May-Games*, *Whitson-Ales*, and *Morice-Dances*, and the setting up of *May-Poles*, and other Sports therewith used: so as the same be had in due and convenient time, without impediment or neglect of Divine Service. And that Women shall have leave to carry Rushes to the Church for the decoring of it, according to their old Custom; but withall His Majesty doth here account still as Prohibited all *unlawful Games* to be Used upon Sundays only, as *Bear* and *Bull-baitings*, *Interludes*, and at all times in the meaner sort of People by Law prohibited, *Bowling*.

And likewise barrs from this Benefit and Liberty, all such known Recusants, either men or women, as will abstain from coming to Church or Divine Service, being therefore Unworthy of any Lawful Recreation after the said Service, that will not first come to the Church, and serve God: Prohibiting in like sort the said Recreations to any that, though Conform in Religion, are not present in the Church at the Service of God, before their going to the said Recreations. His Pleasure likewise is, that they to whom it belongeth in Office, shall present and sharply punish all such, as in abuse of this his Liberty, will Use these Exercises before the end of all Divine Services for that day. And he doth likewise straightly Command, that every Person shall resort to his own Parish Church to hear Divine Service, and each Parish by it self to use the said Recreation after Divine Service. Prohibiting likewise any offensive Weapons to be Carried, or Used in the said times of Recreation: And his pleasure is, that this his Declaration shall be published by order from the Bishop of the Diocess, through all the Parish Churches, and that both the Judges of the Circuits, and the Justices of the Peace be informed thereof.

Given at the Mannor of *Greenwich* the 24th day of *May*, in the sixteenth Year of His Majesties Reign, of *England*, *France* and *Ireland*, and of *Scotland* the one and fiftieth.

Now out of a like Pious Care for the service of God, and for suppressing of any Humours, that oppose truth, and for the Ease, Comfort and Recreation of his Well-deserving People, His Majesty doth Ratifie and Publish this his Blessed Fathers Declaration: the rather because of late in some Counties of this Kingdom, His Majesty finds that under pretence of taking away abuses, there hath been a General forbidding, not only of ordinary Meetings, but of the Feasts of the Dedication of the Churches, commonly called *Wakes*. Now His Majesties

express

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express Will and Pleasure is, That these Feasts, with others, shall be observed, and that his Justices of the Peace, in their several Divisions, shall look to it, both that all Disorders there may be prevented or punished, and that all Neighbourhood and Freedom, with Manlike and Lawful Exercises be used. And His Majesty further Commands all Justices of Assize in their several Circuits to see, that no man do trouble or molest any of his Loyal and Dutiful People, in or for their Lawful Recreations, having first done their Duty to God, and continuing in Obedience to His Majesties Laws. And for this His Majesty Commands all his Judges, Justices of Peace, as well within Liberties as without, Majors, Bayliffs, Constables, and other Officers, to take notice of, and to see observed, as they tender his Displeasure. And doth further Will, that publication of this his Command be made by Order from the Bishops, through all the Parish Churches of their several Diocesses respectively.

Given at the Palace of Westminster, the
18th day of October, in the Ninth Year
of his Reign.

G O D save the K I N G.

As concerning the Effects of this *Declaration*, we shall have occasion in its proper time and place, to make mention of many particulars wherein it proved a snare to many Ministers very Conformable to the Church of *England*, because they refused to read the same publicly in the Church as was required, for upon this many were Suspended and others Silenced from Preaching.

Term. MICHAELIS.

Anno 1633.

About this time a *Decree* was made in the High Court of *Star-Chamber*, in *Michaelmas Term*, after Consultation had among the Judges, and Certificate of their Opinions in divers things, &c.

And also a Confirmation of the *Decree* by His Sacred Majesty, together with His Majesties Command, that the same should be Printed, Published and put in due Execution.

The Contents of which are.

1. *Against Ingrossing, and especially of Grain by Chandlers.*
2. *That Taverners should not sell Victuals within their Houses; for that is against Law.*
3. *That Bakers sell not at 14, 15, or 16 to the Dozen, as hath been used.*
4. *Against the excessive Rates of Ordinaries, that none exceed two shillings a Meal.*
5. *That Ordinary-Keeper, Taverners and Victuallers keep not Houses of Gaming.*

6. For

6. For the present Rates of Horse-meat, and for Regulating for the Future.
7. For suppressing in convenient time of Petty-Ostries in Corners, kept by such as are neither Victualers, nor Innkeepers, nor answerable for the Goods of their Guests.

9 Caroli.

Here followeth the Decree and the Judges Opinions.

A Decree of Star-Chamber.

Charles, by the Grace of God King of England, Scotland, France and Ireland, Defender of the Faith, &c. To all and to whom these Our Letters Patents shall come, Greeting.

Now ye, that we have seen a certain Decree made by Our Council, in Our Court of *Star-Chamber* the 13th day of November, in the 9th Year of Our Reign, which remaineth of record among the Records and Remembrances of that Court, containing divers Ordinances; which Decree followeth in these Words.

In Camera Stellata coram Concilio ibidem 13 die Novembris, Anno nono Caroli Regis.

His Majesties Attorney General did this day Inform this Honourable Court, that it having been presented to the Lords of His Majesties most Honourable Privy Council, that as well the Prices of all sorts of Victuals, as also of Horse-meat, were grown to excessive Rates; and that Instance thereof was given in particular by his Majesties Officers of the *Green-Cloath*, in several provisions made for his Majesties House, whereby the Weekly Accounts of the Household were much increased.

It was thought fit and ordered, that His Majesties Attorney General, as well upon Conference with such of the Judges, and such of His Majesties Learned Council as he should think fit; as upon perusal of all such Laws and Statutes, as are in force concerning the settling of Prices of Victuals and Horse-meat, should make Report unto the Board of his Opinion concerning the same, as by their Lordships Order of the 9th of October last past appeareth: and declared that according to the said Order, he had at several days attended His Majesties Justices of the Kings Bench and Common Pleas, and Barons of the Exchequer, who made Certificate of their Opinion in Writing subscribed by them, which Certificate the said Attorney presented unto this Court, and followeth in these Words.

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‘ Mr. *Attorney*, We send you here inclosed our Opinions of these
 ‘ things, which were propounded, and thought fit to be refor-
 ‘ med at our last General Meeting.

Thomas Richardson,
Robert Heath.
Humphry Davenport.
John Denham.
Richard Hutton.
William Jones.

George Crook.
Thomas Trevors.
George Vernon.
Robert Barkely.
Francis Crawley.

‘ Touching Victuals, we find *Ingrossing* to be a great occasion to
 ‘ raise the Prices thereof, an offence utterly against the *Common-*
 ‘ *Law*: and amongst *Ingrossers* we find the *Chandlers* to be great
 ‘ Offenders in Buying great quantities of all sorts of Grain brought
 ‘ unto, or towards the *Market*.

‘ We also find that *Taverns* are of late exceedingly increased in
 ‘ their number, in and about *London*; and that they Dress Flesh and
 ‘ Fish, and utter the same at excessive Prices, to the increase of Ri-
 ‘ ot and other Abuses; whereas by the Law, as *Taverners* they are
 ‘ to sell nothing but Wine, unless it be Bread to eat therewith.

‘ We find that *Bakers* do sell their Bread at 14, 15, and 16 to the
 ‘ *Dozen*, where they should keep the Assize, and not sell above 12,
 ‘ or 13 at the most to the *Dozen*; and this pincheth the Poor.

‘ We wish that *Ordinaries* in and about *London* may be regulated
 ‘ to a convenient sum, and not to exceed two shillings for the Meal:
 ‘ and we wish that both *Taverners* and *Ordinary-Keepers* may be
 ‘ wholly restrained from suffering unlawful Games in their Houses:
 ‘ for we find that this draws unthrifty Guests unto them, and is an
 ‘ apparent means to overthrow the Fortunes of many Gentlemen
 ‘ and Citizens.

‘ Touching *Horse-meat*, upon hearing of divers Justices of Peace
 ‘ of *Middlesex* and *Surrey*, and of divers *Inn-keepers* of *London*, *West-*
 ‘ *minster*, *Middlesex* and *Surrey*; We are of Opinion that the pre-
 ‘ sent Prices of Hay and Oats considered, six Pence Day and Night
 ‘ for Hay for a Horse, and for Oats six Pence a Peck *Winchester*
 ‘ *measure*, is a Competent Rate to be given to *Inn-holders*, and to
 ‘ take nothing for Litter; and if they exceed these Rates, we hold
 ‘ them punishable by the Law, as for exacting Excessive and Un-
 ‘ measurable Prices. For *Horses* which come to Inns in the day-
 ‘ time, we conceive it to be a convenient Rate for the *Inn-keeper* to
 ‘ take a Penny for a Horse, for his Stable-room only, the Horse not
 ‘ being Unbridled; if he be Unbridled and have Hay, and go away
 ‘ the same day, to take two Pence the Horse, and no more.

‘ We find that of late Years, there are many petty *Ostries* set up in
 ‘ and about *London*, which entertain Horses in by corners, and receive
 ‘ Stable-Horses, and the Horses of such who are persons suspected,
 ‘ and these have no Lodging for Travellers. By these *Ostries* great
 ‘ Inconveniencies happen to the Subject in general, and much preju-
 ‘ dice to the *Inn-holders* in particular, who by Law are bound to
 ‘ Lodge their Guests, and to be answerable for the Goods brought
 ‘ into their Charge.

We

‘ We find also that there are divers, who unlawfully ingross
‘ great quantity of Hay to sell again: These are Ingrossers punish-
‘ able by the *Common-Law*; and humbly moved this Honourable
‘ *Court*, that the same might be here recorded; and that the Court
‘ would be pleased for the good of His Majesties people, to Decree
‘ and Command that the particulars thereof be strictly observed.
‘ Whereupon this Honourable *Court* taking the same into their se-
‘ rious Consideration, hath ordered, that the Certificate be Record-
‘ ed in this Honourable *Court*; and hath Decreed,

‘ *First*, For that it is notoriously known, that Ingrossing is a
‘ great occasion to raise the prices of Victuals, and also of Hay;
‘ and Ingrossing to inhance prices is punishable, not only by the
‘ *Statutes*, but also by the *Common Laws* of the *Realm*; His Maje-
‘ sties Justices of the *Benches* at *Westminster*, and Barons of the *Ex-*
‘ *chequer*, the Justices of *Affize* and *Oyer* and *Terminer*, and Justices
‘ of Peace in their severall places, are required to cause diligent in-
‘ quiry to be made of all *Ingrossers* of all sorts of Victuals and Hay,
‘ and see the Delinquents herein be severely punished.

‘ And His Majesties Attorney General is likewise Commanded,
‘ to cause such of them as shall be brought to his notice, to be in-
‘ formed against in this Honourable Court, that of them Example
‘ may be made to deter others from the like Offence.

‘ And it is *Decreed*, that after publication of this Decree in *Lon-*
‘ *don*, no *Chandler* presume to buy Corn, Grain, Meal, or Flower to
‘ sell again, either in Market, or out of Market.

‘ And this Court concurring in Opinion with the said Reverend
‘ *Judges*; and considering the great Excess and Riot, that is occasi-
‘ oned by preparing and selling of Victuals in *Taverns*; and how
‘ the prices of fundry sorts of *Viands* are hereby increased; hath
‘ Decreed, that no *Taverner* or *Vintner*, selling Wine by Retail,
‘ do hereafter sell, or make ready for sale, any sort of Flesh or Fish,
‘ or other Victuals save Bread; nor to defraud this Ordinance, do
‘ by himself, or any other, set up, or cause, or procure to be set up
‘ the Trade of a *Cook* within the same House, or in any Shop or
‘ Room thereunto belonging, or in any House thereto near adjacent;
‘ nor permit or suffer any Flesh, Fish, or other Victual, except Bread,
‘ as aforesaid, to be brought into his House to be there eaten by
‘ any of his Guests.

‘ And the *Court* taking into Consideration, how the Poor are
‘ oppressed and pinched, when *Bakers* do sell their Bread to those
‘ that vend the same by Retail, at the rates of more than twelve to
‘ the *Dozen*, in that the weight is abated in every Loaf; and the
‘ Buyer being sometimes but a Passenger, is not able to make Com-
‘ plaint of the *Baker*, whom he knoweth not: It is therefore likewise
‘ Ordered and Decreed, that no *Baker* shall sell any Bread at other
‘ rate than 12, or 13 at the most to the *Dozen*.

‘ And further it is Decreed, that none that shall keep *Ordinary-*
‘ *Tables*, or other Victualing-Tables, shall take more of the Guests
‘ than after the rate of two shillings the man for the Meal, nor more
‘ than eight Pence for each Servant attending his Master; and
‘ that nothing be taken above that rate for Wine, or other
‘ thing, or under colour thereof, whereby the true intent of
‘ this *Decree* may be deluded, or defrauded. And that none of
‘ them,

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them, or *Taverners*, or other Victualers, keep or suffer to be used Games of *Dice, Cards, Tables*, or other unlawful Games in their Houses, wherein this Court declareth the Licenses given by the *Groom-Porter* of His Majesties House, or others, for Licensing or Permitting any of the said Games, are not of validity to excuse the Offenders.

Concerning *Horse-meat*, For that upon hearing of the said Justices of the Peace, and *Inn-keepers*, the present Prices considered, the Rates before specified are Competent;

It is for the present Ordered and Decreed, that no *Inn-keeper*, or *Ostler* within the Cities of *London* or *Westminster*, or in any place within the distance of ten miles from either of those Cities, the Suburbs, or Liberties of either of them, shall take above six Pence for a Horse standing in his Stable at Hay, a day and a night; nor more than six Pence for a Peck of Oats, of the Measure commonly called *Winchester-Measure*, without taking any thing for Litter, nor more than a Penny for standing of a Horse in his Stable a day without Meat, nor above two Pence for a Horse standing at Hay in the Day, and going away before Night.

And that no *Inn-keeper* shall exceed those Rates in any part of this *Realm*; and where Grain and Hay are sold at lesser Prices, there the Rates and Prices shall be accordingly. And this Ordinance shall continue, until in the County of *Middlesex* it shall be made to appear to the Justices of the Kings Bench, and in other Counties and places, to the Justices of Peace there; that because of the Increase of Prices in the parts adjoyning, greater Rates are necessarily to be permitted: and thereupon other Rates shall from time to time be set; which being set, are hereby Comanded and Injoynd to be strictly and duly observed, until the same by like Authority shall be altered.

And to the end that there may be from time to time, moderate Rates and Prices for Hay, and Grain of all sorts, taken by *Inn-keepers* and *Ostlers*, of Passengers and their Guests; His Majesties Justices of the Kings Bench are desired, and the Justices of the Peace of other Counties and Places are required yearly, and more often if there shall be occasion, to make diligent inquiry of Hay and other Horse-meat, and to make Declaration in Writing fixed in publick places, what Prices and Rates for Hay, and other Horse-meat are allowed to be taken by the *Inn-keepers*, which the said *Inn-keepers* and *Ostlers* are Comanded to observe.

And if any of them shall presume to offend therein, that diligent inquiry be made of them; that they being presented, may without Connivance receive severe Punishment as oppressors of His Majesties people, by taking excessive Prices.

Moreover, the Court considering the great inconveniences that do arise by the number of petty *Hoftries* and *Ostlers*, that keep Stables for Horses without Lodging for Guests; not liable, nor able to make satisfaction for Goods under their Custody, that shall be stolen or imbezeled: yet taking consideration of their Poverty, and that it would tend to their undoing, if they should be suppressed, before such time as the store they have already provided, shall be spent; the Justices of the Peace of the City of *London*, Suburbs and Liberties thereof, the City of *Westminster* and

Burrough

‘ *Burrough of Southwark*, and of the *Counties of Middlesex and Surrey*, are required with all convenient speed, to make inquiry of all such petty *Ostries* within the said *Cities, Burroughs, Suburbs, Liberties*, and all places not distant above two miles from some part thereof, and what Provision of Hay, Oats and Provender remaineth in their hands unspent; and to Command them not to make any farther Provision.

‘ And after that which is remaining in their hands shall be spent, no longer to use or keep such *Ostries*.

‘ And it is *Decreed* by this *Court*, that none after that time shall keep, or use any such *Ostries*.

‘ And to the end, that notice may be taken of this *Decree* by all those whom it may concern; and that none may excuse himself upon pretence of being ignorant of the Contents thereof;

‘ It is *Ordered*, that the same be published in the *Cities of London and Westminster*, and in the several *Counties* of this Realm, at *Affizes, Sessions*, and other places of publick Assemblies.

‘ And all they to whom the execution thereof pertaineth are required, that they see the same put in due execution.

‘ *Know ye*, that we taking into Our Consideration, that the said *Decree* was made upon grave and sad Advice, and upon the Certificate of Our *Judges*, and that the same is Just and Necessary to be observed, have Approved the same *Decree*, and do Ratifie and Confirm the same: and the Necessity of these Times requiring it,

‘ We do Command, that the same by all those whom it concerneth be obeyed and put in execution, under the pains to be inflicted upon the Contemners of Our Command, and the *Decrees* of that *Court*.

‘ And to the end that all our Loving Subjects may be participants of the good thereof, and may complain of those things wherein they shall be grieved, contrary to the tenor of the said *Decree*, and of those that in disobedience shall contemn, or neglect the due observance thereof;

‘ We do Command Our *Printer*, that he forthwith cause these Presents to be Printed and Dispersed into the several *Counties* of this *Realm* with expedition; so that in every of those *Counties*, the same may be published at the general *Session* of the *Peace*, to be holden next after the *Feast* of the *Epiphanie* now next coming, that Our People of those *Counties* may take notice thereof.

‘ And we do Command the *Justices* of the *Peace*, that at their said *Sessions* in every of the said *Counties*, the same be openly read: and we do require Our *Council* in Our *Court of Star-Chamber*, the *Justices* of our *Benches*, *Barons* of Our *Exchequer*, *Justices* of *Affize* and *Oyer* and *Terminer*, and *Justices* of the *Peace*; that against all those that shall offend against the said *Decree*, they proceed without Connivence, as they tender Our Service and the good of Our People.

‘ Whereof We have caused these Our *Letters* to be made *Patents*.
Witness Our Self at *Westminster*, the 14th day of *December*, in the 9th Year of Our Reign. Per ipsum Regem.

WILLIS.

In

An. 1633.

Coates versus
Goring & ali-
os.Riotous Res-
cue.Fifty pound
Damages.

Mich. 9 Car.

THE Defendant *Munday* being Arrested in *Chelsey-fields*, at the Plaintiffs Suit, by two of the Sheriff of *Middlesex* Bailiffs, lay down on the ground, and desired that notice might be given to his Friends thereof, and that they would not suffer him to be carried away; whereupon *Goring* being then a Constable, together with the Defendants *Richard Munday*, *Wine* and *Trott*, who were weaponed with Staves, with divers others, came to the Bailiffs, who told them they had Arrested *Thomas Munday*; and then the said *Wine*, *Trott* and *Richard Munday* sware, they should not carry him a foot farther; and *Goring* the Constable, under pretence of keeping the peace, took away the Bailiffs Weapons, and then did knock them down; and then the Defendants did, with others, sore beat and wound the Plaintiff, and the Bailiffs, and Rescued the Prisoner, and then carried the Plaintiff, and Bailiffs to *Chelsey*; and by the way *Goring* threatned to throw one of the Bailiffs into the *Thames*: and when they came to *Chelsey* he caused them to be shut up into a Room, and would not suffer a Chirurgeon to come to them to stanch their Bleeding, by the space of an hour and half, and in that time he took away the Bailiffs Warrant. And for these offences they were all committed; *Goring* fined fifty pound, and the other four and twenty pounds a piece, all bound to the good Behaviour a year, and pay fifty pound damage to the Plaintiff.

Mich. 9 Car.

Attorn. Regis
ore tentus Ver-
sus Jagger &
alios.Counterfeit-
ing of Far-
things, and
making Instru-
ments for that
Purpose,

THE Defendants confederated and agreed together to make Counterfeit Farthing-Tokens, and accordingly they did so. *Jagger* and *William Cooper* were the Work-men, and by the help of *Meacombe*, a Black-smith, provided Tools for that purpose; *Augur* furnished them with Mony and Copper, and was to have a share of the Farthings, and profits thereof; and *Ralph Cooper* bespake some of the Tools, and paid eleven Shillings towards them, and was to have a third part; and had, and did vent some of the Tokens which they made; and *Meacombe* the Smith made part of the Tools, being told for what purpose they were. And for this they were Committed, Fined 100 l. a piece, set on the Pillory in *Cheapside*, and thence whipped through the Street to Old *Bridewel*, and there received and kept at Work; and if ever they be thence enlarged, then first to find Sureties for their good Behaviour.

Mich. 9 Car.

Attorn. Regis
per Rel South-
cot & aliis.
Set Cap versus
Thornbury.
Libel.

THE Defendant out of malice to the Relator, being a Chirurgeon in *Chichester*, did, in the presence of divers persons, publish certain Libellous Rhythmes and Verses, which he said were made of the Relator, beginning thus, From *Cet* to *South*, from
Cap

Cap to Scot; and ending thus, *And is not he a very Knave, who makes a Privy of a Grave?* And for this he was committed to the Fleet, fined fifty pound, to ask the Relator forgiveness at *Chichester* before the Mayor, and pay him twenty pound Damages.

9 Caroli.

Twenty pound Damage.

Mich. 9 Car.

THE Defendant, Sir *Henry Bealing*, together with one *Mac-robin* deceased, who bare malice to the Relators Father, and vow'd to be reveng'd of him, falsely informed the Justices of Assize, That the said *Busben* the Father had murdered his Wife, and thereupon he was bound over to answer it at the Assizes; and the Grand Jury, upon the Bill of Indictment against him, return'd *Ignoramus* twice: and the Justices of Assize having, for discovery of the Truth, examined divers Witnesses, they gave direction to acquit him by Proclamation; which the Defendant *Bealing* perceiving, and being incensed against *Busben* for some words that he used then in Court, he did again press and procure the Lord *Angier*, then Judge of the Assize, to bind the said *Busben* over again unto the next Assizes, and said he would be bound to Prosecute, and find other Evidence against him for the King: and between that and the Assizes *Bealing* vow'd, he would spend all the Friends, and Means he had, but he would have *Busben* hang'd; and also said he would follow him to Hell-gates, but he would hang him. And to effect that his Devilish Purpose, he earnestly solicited the Lord Viscount *Loftus*, Lord Chancellor of *Ireland*, to interpose therein, and give his Assistance, telling him great advantage would be made thereby, for that *Busben* was a Man of a great Estate; which the Lord *Loftus* refusing, *Bealing* sent a Servant to *Welden*, then High-Sheriff of the County, to tell him, that if he would joyn with him the said *Bealing* to Convict *Busben*, it should be worth him 5000 *l.* And before the Assizes, *Bealing* told the Lord *Loftus* he had gotten a Man of Power that would prosecute it with effect. And at the Assizes, the Defendant the Lord *Kilmallock* being then Chief-Justice *de Com' Banco* in *Ireland*, and Justice of Assize, (and being, as it should seem by the sequel, the Man of Power mentioned by *Bealing*) caused the Sheriff, on the 2d day of the Assizes, about 7 or 8 a Clock in the morning, to send for the Grand-Jury to the said Sheriffs House; and they being brought into the Dining Chamber there, he caused all persons whatsoever to be shut forth, except the Judges themselves, the Jury, the Clerk of the Crown, the Sheriff, and the Defendant *Bealing* the Prosecutor: and the doors being shut, the Defendant, the Lord *Sarsfeild* Viscount *Kilmallock*, caused a Bill of Indictment to be preferr'd, and read to the Jury against *Busben*, for the Murder of his Wife, and then bid the Jury go together and find the Bill, and told them they ought to find the Bill; and the Jury desiring to have some Evidence, the Defendant *Kilmallock* call'd the Defendant *Bealing*, who upon his Oath did Depose only, that he heard *Busben* murdered his Wife, which was all the Evidence they had, saving that the Lord *Sarsfeild* told

Star-Chamber
Attorn' Regis
per Rel' Bush-
en vers' Dom'
Vicecom' Kil-
mallock, &
al' de Ireland.

Malitious Practice, prosecution of an Innocent Man for Murder.

An. 1633.

Unjust, and Indirect Carriage in a Judge upon the Arraignment and Trial of a Man for Murder, whereby an Innocent Man was Condemned and Executed.

some impertinent Tales and Discourses of the strange and miraculous Discoveries of secret Murders, and said, That unless they would expect a Miracle from Heaven, they could have no better Evidence than they had. And afterward Four of the Jury refusing to find the Bill, the Lord *Sarsfeild* told them, if they would not find the Bill, they must attend him in Court, which they did: and one of them being ask'd, Whether he was with the Bill, or against the Bill? and he answering Against the Bill, the Lord *Sarsfeild* told him, he look'd for no better at his hands; and told another of them that was against the Bill, it was one of his *London Tricks*, and then Committed the Four that would not find the Bill, put them off from the Jury, and fined them 40 *l.* a piece; and striking his hand on his Breast, swore by his Honour, that not one Penny of their Fines should be remitted; and immediately after caused the 11 that yielded to find the Bill, and Two others to be sworn of a new Grand-Jury, and they going together, found the Bill *Billa Vera*. And thereupon *Busben* coming to be Tried for his Life by the Petty-Jury, and Evidence being about to be given against him, he desir'd, in respect of his Age and Deafness, and the then Noise of the Glass-Windows, by reason of a present Storm, and the Noise of the People, that he might have leave to come out of the Bar, and stand where he might hear what Evidence was given against him, that he might the better answer for himself; which the Lord *Sarsfeild* unjustly denied him. And *Busben* being charged, that he himself put his Wife into her Winding-sheet, desir'd that such persons as did view her Body after her death, and did wind her, might be heard to discover the Truth; the Lord *Sarsfeild* unjustly denied that also: and *Busben* then desiring that the Justice of Peace, who had taken the Examination of the Business, might be heard, the Lord *Sarsfeild* denied him that Request also. And the Petty-Jury, after going together, and staying somewhat long, the Lord *Sarsfeild* sent them word, that if they would not agree and come away, he would carry them with him the next day in a Cart; and being told that they were all agreed but one, he sent a Message to the Jury, inciting them to pinch that Man that would not agree; to pull him by the Nose, by the Hair of the Head, and by the Beard; and by that means to compel him to agree with them; and bid the Jury make much of him that night, and that he would make much of him the next day; and sent that one Man word, that it had been better for him to agree. And soon after these threatening Messages delivered to the Jury, and they knowing the usage of the former Jury, did, upon light Evidence of Hear-says only delivered by *Bealing*, and others, find *Busben* Guilty of the Murder of his Wife, and he was condemned, and Executed for the same, when as it clearly appear'd she died of a Natural Death, and Disease of the Floody-Flux. And for this foul Carriage, the Lord *Sarsfeild* Viscount *Kilmallock*, was committed to the *Fleet*, during his Majesties Pleasure; Fined 2000 *l.* to the King, and 1000 *l.* Damage to *Busben* the Relator: *Bealing* Knight, for his malicious Prosecution, Devilish Practice and Attempt to get other Men of Power into his Wicked Prosecution, was Committed to the *Fleet*, Fined 500 *l.* and to pay 250 *l.* Damage to *Busben*, the Relator.

1000 *l.* Dam.250 *l.* Dam.

The

9 Caroli.

The Bishop of *London* being lately Translated to be Arch-Bishop of *Canterbury*, he, by vertue of his Place, as the greatest Man in the Church, thought fit to advise his Majesty for a Reformation in the Church of *Scotland*, and began with the *Royal Chappel* in these following *Articles* sent in His Majesties Name, with a *Letter* to command Obedience.

Charles Rex.

OUR express Will and Pleasure is, That the Dean of Our Chappel, that now is, and his Successors, shall be Assistant to the Right Reverend Father in God, the Arch-Bishop of *St. Andrew's*, at the Coronation, so often as it shall happen.

October the 8th 1633.
The Articles for his Majesties Royal Chappel in Scotland.

That the Book of the Form of Our Coronation lately used, be put in a little Box, and laid into a Standard, and committed to the Care of the Dean of the Chappel successively.

That there be Prayers twice a day, with the Quire, as well in Our absence, as otherwise, according to the English Liturgie, till some Course be taken for making one, that may fit the Custom and Constitution of that Church.

That the Dean of the Chappel look carefully, that all that receive the Blessed Sacrament there, receive it Kneeling; and that there be a Communion held in that Our Chappel the first Sunday of every Month.

That the Dean of Our Chappel that now is, and so successively, come duly thither to Prayers upon Sundays, and such Holy-days as that Church observes, in his Whites, and Preach so when-ever he Preacheth there. And that he be not absent from thence, but upon necessary occasion of his Diocess or otherwise, according to the Course of his Preferment.

That these Orders shall be Our Warrant to the Dean of Our Chappel. That the Lords of Our Privy Council, the Lords of the Sessions, the Advocate, Clerks, Writers to the Signet, and Members of Our College of Justice, be commanded to receive the Holy Communion, once every Year at the least, in that Our Chappel Royal, and Kneeling for Example sake to the Kingdom. And We likewise Command the Dean aforesaid to make Report yearly to Us, how We are obeyed therein, and by whom; as also if any Man shall Refuse, in what manner he doth so, and why?

That the Copes which are Consecrated to Our Use, be delivered to the Dean to be kept upon Inventory by him, and in a Standard provided for that purpose; and to be used at the Celebration of the Sacrament in Our Chappel Royal.

Charles Rex.

REverend Father in God, Trusty and well-beloved Counsellor, We Greet you well. We have thought good, for the better ordering of Divine Service, to be performed in Our Chappel Royal there, to set down some Articles under Our own Hand, to be observed therein, which We send you here inclosed. And it is Our special Pleasure, That you see every thing carefully performed, according as We have directed by these Our inclosed Articles; and likewise that you Certifie to the Lords of Our Privy Council, if any of those appointed by Our former Letters

The Letter.
October 8.

An. 1633. *to them, to Communicate in Our Chappel-Royal, shall not accordingly perform the same, to the end such Order may be taken by Our Council therein, as by Our said former Letters to them We did appoint. Wherein expecting your Diligence and Care, We bid you Farewell.*

From Our Court at *Whitehall* the 8th day of *October*, 1633.

Moreover, the Arch-bishop of *Canterbury* had a Warrant from the King, to hold Correspondence with the Bishop of *Dunblane*, the present Dean of the Chappel-Royal in *Edenburgh*, and from time to time to Communicate unto him His Majesties further Directions, for the ordering of this Service. The Royal Chappel being thus ordered, was declared to be for a Pattern of the Intended Reformation to all *Cathedrals*, *Chappels*, and *Parish-Churches* in *Scotland*.

After this the Arch-bishop wrote divers Letters to Bishop *Balentine*, to promote the Design, and to let His Majesty receive a Note, who those be that Conformed, and who not.

Another Letter Informing him of his missing the Bishoprick of *Edenburgh*, for his Omission of Prayers in the Chappel, according to the *English Liturgie*, &c. and Exhorting him to be careful for the future, and that his Excuse was not satisfactory, *viz.* That the Singing-Men could not come for Debt; for that the Prayers might have been read by his Lordship's *Chaplain*. That he did well to acquaint the Lords with His Majesties Resolution concerning the Communion there.

Another to like purpose, and concerning the payment of the Singing Mens Wages.

Another, *January* the 12th 1634, giving him Thanks for his Resolutions about ordering the King's Chappel, and wearing his Whites, &c.

Another, *February* the 28th 1634, containing Thanks from the King, for the Solemnity of the late Communion, and expressing his Hopes, that the other Bishops were in their *Whites*, as well as he, that the Envy of the Vulgar might not fall only on him. That he had shewed His Majesty the Paper of those of the *Session*, as did not Conform at the Communion. That he had done what he could for the Gentleman of the Chappel; but the Times required Patience, &c.

And on the 28th of *September* 1634, the Arch-bishop of *Canterbury* caused the King to Sign a Common-Prayer-Book, for the use of the Church of *Scotland*: and gave order to the Bishops of *Scotland*, to compile certain Canons for the Government of the Church of *Scotland*; which Liturgie and Canons were to be Imposed upon that Church, by Regal, and Episcopal Authority, without Consent of *Parliament*, or of a General *Assembly*. The Bishops of *Scotland*, not long after, gave the Arch-Bishop of *Canterbury* a particular Account of their Proceedings therein, with Thanks for his many Favours to them.

In these Times the Communion-Table in Parochial Churches began to be placed *Altar-wise* after the Pattern of *Cathedrals*, which were called *Mother-Churches*.

9 Caroli.

ON the 3^d of *November* was debated before His Majesty, sitting in Council, the Question and Difference which grew about the removing the Communion-Table in *St. Gregories Church* near the *Cathedral Church* of *St. Pauls*, from the middle of the Chancel to the upper end, and there placed *Altar-wise*, in such manner, as it standeth in the said Cathedral and *Mother-Church*, as also in all other Cathedrals, and in His Majesties own Chappel, and as it is consonant to the practice of approved Antiquity; which removal, and placing of it in that sort, was done by order from the *Dean* and *Chapter* of *St. Pauls*, who are Ordinaries thereof, as was avowed before His Majesty by *Dr. King* and *Dr. Montfort*, Two of the *Prebendaries* there: yet some few of the Parishioners, being Five in Number, did complain of this Act by Appeal to the Court of *Arches*, pretending that the Book of Common-Prayer, and the 82^d Canon, do give permission to place the Communion-Table where it may stand with most fitness and convenience. Now His Majesty having heard particular relation made by the Counsel of both Parties, of all the carriage and proceedings in this Cause, was pleased to declare his dislike of all Innovation, and receding from Ancient Constitutions, grounded upon just and warrantable Reasons, especially in Matters concerning Ecclesiastical Order and Government, knowing how easily Men are drawn to affect Novelties, and how soon weak Judgments in such Cases may be overtaken and abused: Further also observing, that if these few Parishioners might have their Wills, the Difference thereby, from the aforesaid Cathedral *Mother-Church*, by which all other Churches depending thereon ought to be guided, would be the more notorious, and give more subject of Discourse and Disputes that might be spared, by reason of *St. Gregories* standing close to the Wall thereof. And forasmuch as concerns the Liberty given by the Common-Book, or Canon, for placing the Communion-Table in any Church or Chappel with most convenience; it was answered, That such Liberty is not so to be understood, as if it were ever left to the discretion of the Parish, much less to the particular Fancy of any humorous person, but to the Judgment of the Ordinary, to whose Place and Function it doth properly belong to give direction in that Point, both for the thing it self, and for the time when, and how long, as he may find cause; upon which Consideration His Majesty declared, That he well approved and confirmed the Act of the said Ordinary, and so gave Commandment, that if those few Parishioners before mentioned did proceed in their said Appeal, the *Dean* of the *Arches*, who was then attending at the hearing of the Cause, should confirm the said Order of the aforesaid *Dean* and *Chapter*.

St. Gregories Church.

The

An. 1633.

The Lords present at the making of this Order were these.

The King's Most Excellent Majesty.

Lord Arch-Bishop of Canterbury.	Earl of Carlisle.
Lord Keeper.	Lord Cottington.
Lord Arch-Bishop of York.	Mr. Treasurer.
Lord Treasurer.	Mr. Comptroller.
Lord Privy-Seal.	Lord High-Chamberlaine.
Lord Duke of Lenox.	Earl Marshal.
Lord Chamberlaine.	Mr. Secretary Cooke.
Earl of Bridgewater.	Mr. Secretary Windebancke.

Thomas Lord Viscount Wentworth, Lord Deputy of Ireland, on the 22^d of January 1633, was pleased to write to His Majesty a Letter, giving his Humble Opinion concerning a Parliament in His Majesties Kingdom of Ireland, as followeth.

January 22.
1633. The
Lord Deputy
of Ireland's
Advice to the
King, concern-
ing the calling
a Parliament.

Albeit the calling of the Parliament in this Kingdom, is at no time of so much hazard, (where nothing is propounded as a Law, before it first borrows motion from Your Majesties immediate Allowance under Your Great Seal) as it is in England, where there is a Liberty assum'd to offer every thing in their own time, and order; and this Subordination, whereunto they have been led by the Wisdom of former Times, is ever to be held as a Sacred Prerogative, not to be departed from, in no piece to be broken or infringed: yet is the Proposition always weighty, and very necessary to be considered with great deliberation, whether the present Conjuncture of Affairs doth now advise a Parliament, or no? and after a serious Discourse with my self, my Reason perswades me for the Assembling thereof.

Lord Deputy
Wentworth's
Letter. 1633.

For the Contribution from the Country toward the Army, ending in December next, Your Majesties Revenue falls short Twenty Thousand Pounds Sterling by year of the present Charge it is burthened withal, besides the vast Debt of Fourscore Thousand Pounds Irish upon the Crown; which yearly Payments alone are impossible by any other way to be in time supplied, but by the Subject in Parliament; and to pass to the Extraordinary, before there be at least an Attempt first to effect it with ease, were to love difficulties too well; rather voluntarily to seek them, than unwillingly to meet them; and it might seem as well vanity in the first respect, so to affect them, as faintness to bow under them, when they are not to be avoided.

The next Inclination thereunto ariseth in me from the conditions of this Country, which is grown very much more civil and rich, since the Access of Your Royal Father of Blessed Memory, and Your Majesty to the Crown.

That all You have here is issued out again among them for their protection and safety, without any considerable Reservation for other the great Affairs and Expences abroad.

That this great Charge is sustained, and this great Debt Contracted through Employments for the Publick, whereof the benefit hitherto hath been intirely theirs. That there hath been but one Subsidy granted in all this time, nor any other Supply but this Contribution; in exchange where-

whereof Your Princely Bounty return'd them Graces as beneficial to the Subject, as their Money was to Your Majesty; so as their Substance having been so increased under the Guard of Your Wisdom and Justice, little issued hence from them. The Crown so pressed only for their Good; and so modest a Calling upon them now for a Supply, which in all Wisdom, Good Nature, and Conscience, they are not to deny; Should they not conform themselves to Your Gracious Will, their unthankfulness to God, and the best of Kings, would become inexcusable before all the World, and the Regal Power more warrantably to be hereafter extended, for redeeming and recovering Your Majesties Revenues thus lost, and justly to punish so great a Forfeit, as this must needs be judg'd to be in them.

Next, the frightful Apprehensions, which at this time makes their Hearts beat, lest the Quarterly Payments towards the Army, continued now almost Ten years, might in fine turn to an Hereditary Charge upon their Lands, incline them to give any reasonable thing at present, to secure them from that fear for the future; and therefore according to the wholesome Counsel of the Physician, Dum doler, accipe.

And lastly, if they should meanly cast from them these mighty Obligations, which indeed I cannot fear; Your Majesties Affairs can never suffer less by their starting aside, when the General Peace abroad admits more united Power in Your Majesty, and less distracted thoughts in Your Ministers to chastise such a forgetfulness, to call to their remembrance, and to inforce from them other and better Duties than these.

In the second place, the time Your Majesty shall in Your Wisdom appoint for this Meeting imports very much, which, with all submission, I should advise might not be longer put off than Easter or Trinity Term at farthest, and I shall crave leave to offer my Reasons.

The Improvements mentioned in my Dispatch to the Lord Treasurer, (from which I no way recede) would not be foreflowed, wherein we lose much by deferring this Meeting: a Circumstance very considerable in these streits, wherein, if surpriz'd, it might be of much disadvantage, in case the Parliament answer not expectation; and to enter upon that Work before, would be an Argument for them to scant their Supply to your Majesty.

Again, A Breach of a Parliament would prejudice less thus, than in Winter; having, at the worst, Six Months to turn our Eyes about, and many Helps to be gain'd in that space; where, in the other Case, the Contribution ending in December next, we should be put upon an instant of Time, to read our Lesson at the first sight.

Then, the calling of a Parliament, and determining of the Quarterly Payments falling out much upon one, might make them apprehend, there was a necessity enforcing a present Agreement, if not the good one we would, yet the best we could get; and so embolden them to make, and flatter themselves to gain their own Conditions; and Conditions are not to be admitted with any Subjects, less with this People, where Your Majesties absolute Sovereignty goes much higher, than it is taken (perhaps) to be in England.

And lastly, There being some of Your Majesties Graces, which being passed into Laws, might be of great prejudice to the Crown; and yet it being to be fear'd, they will press for them all, and it's uncertain what humor the denying any of them might move in their Minds: I conceive, under favour, it would be much better to make two Sessions of it, one
in

An. 1633.

in Summer, the other in Winter; in the former to settle Your Majesties Supply; and in the latter, to Enact so many of those Graces, as in Honour and Wisdom should be judged equal; when the putting aside of the rest might be of no ill consequence to other Your Royal Purposes.

All the Objections I am able to suggest unto my self are Two: That it might render fruitless the intended Improvement upon the concealments, and prejudice the Plantations of Connaght and Ormond. The first may easily be helped by a short Law propounded in my Dispatch to my Lord Treasurer; and Posito, that there do no other Law pass the first Session, the second is likewise sufficiently secur'd.

Then it is to be foreseen what Your Majesty will demand; how to induce, and pursue the same, for the happy settlement of the Regal Rights and Powers in this more subordinate Kingdom.

My Humble Advice is, to declare at the first opening of the Meeting, that Your Majesty intends, and promises Two Sessions: This former for Your self; that latter in Michaelmas Term next for them. This to ascertain the Payments of Your Army, and to strike off the Debts of Your Crown; That for the Enacting of all such profitable and wholesome Laws, as a moderate and good People may expect from a Wise and Gracious King.

That this being the order of Nature, Reason, and Civility, Your Majesty expects it should be intirely observ'd, and Your self wholly intrusted by them; which they are not only to grant to be fit in the general Case of King and Subjects, but ought indeed to acknowledge it with Thankfulness due to Your Majesty in particular, when they look back, and call to mind, how for their ease You were content to take Sixscore Thousand Pounds (which their Agents gave to be paid in Three) in Six Years; and not barely so neither, but to double Your Graces toward them the whilst, which they have enjoyed accordingly much to their Advantage, and greatly to the loss of the Crown.

And that considering the Army hath been represented over to Your Majesty from this Council, and in a manner from the Body of this whole Kingdom, to be of absolute Necessity, to give comfort to the quiet Minds in their honest Labours, to contain the Licentious Spirits within the modest Bounds of Sobriety; It consists not with Your Majesties Wisdom to give unto the World, no not the Appearance of so much improvidence in Your own Councils, of so much forgetfulness in a Case of their Safety, as to leave that Pillar of Your Authority, and their Peace, unsettled for continuance at least one Six Months before the wearing forth of their Contribution.

Therefore Your Majesty was well assur'd, in conformity to the Rules of Reason and Judgment, they would presently grant Three Subsidies to be paid in Three years, to disengage the Crown of Fourscore Thousand Pounds Debt, and continue their Quarterly Payments toward the Army Four years longer; in which time it was hopeful (suitable to Your Gracious Intentions) some other Expedient might be found out, to maintain the Army without farther Charge to them at all; which Law passed, they should have as much leisure to Enact for themselves at after, as they could desire, either now, or in Winter. Nay, Your Majesty would be Graciously pleased, with the Assistance of Your Council, to advise seriously with them, that nothing might remain, either unthought-of, or denied, conducing to the publick Good of this Kingdom; but if they
make

make difficulty to proceed with your Majesty in this manner, other Counsels must be thought of, and little to be relied on, or expected from them.

9 Caroli.

I am not to flatter Your Majesty so far, as to raise any hope on that side, that all this should be granted but by pressing both, and especially the continuance of the quarterly payments to the Army, which they dread above any earthly thing. I conceive it probable, that to determine and lay asleep (as they think) the Contribution, and in acknowledgment of Your Majesties happy access to the Crown, they may be drawn to a present gift of three Subsidies, payable in three years, which alone would keep the Army on foot, during that time: and if my Calculation hold, almost discharge the debt of the Crown beside.

For thus I make my Estimate. The Contribution from the Country is now but twenty thousand pounds sterling by the Year; whereas I have good Reason to trust, each Subsidie will raise thirty thousand pounds sterling, and so there will be 10000 l. for three years, over and above the establishment, which thirty thousand pounds sterling, well and profitably issued, will (I trust) with Honour to Your Majesty, and Moderate satisfaction to the Parties, strike off the whole fourscore thousand pounds Irish, which in present presseth so sore upon this Crown.

And then, Sir, after that in Michaelmas Term all Beneficial Acts for the Subject be thought of, as many, no fewer, nor no more Enacted than were fit in Honour, and Wisdom to be granted; If for a Conclusion to this Parliament we could gain from them other two Subsidies, to buy in Rents and Pensions to ten thousand pounds yearly value (a thing they are inclinable unto, as is mentioned in my Dispatch to the Lord Treasurer) I judge there were a happy issue of this Meeting; and that it should through God's Blessing appear to the World in a few years, You had without charge made a more absolute Conquest of this Nation by Your Wisdom, than all your Royal Progenitors have been able to accomplish by their Armies, and vast expence of Treasure and Blood.

These being the ends, in my poor Opinion, which are to be desired, and attained; the best means to dispose and fit all concurring causes thereunto, are not to be forgotten; and therefore as preparatives, I make bold to offer these ensuing particulars.

It seems to me very convenient, a Committee be forthwith appointed of some few of us here, to take into consideration all the Bills intended, when there was a Parliament to have been called in the time of my Lord Faulkland; Such as shall be judged beneficial to make them ready; such as may be of too much prejudice to the Crown, to lay them aside, and to draw up others, which may chance to have been then omitted. This Work may be by the Committees, either quickned or foreslownd, as the Parliament proceeds warmer, or cooler in Your Majesties supplies.

Next, That Your Majesties Acts of Grace directed to my Lord Faulkland the 24th of May 1628, may be considered by such of Your Council in England, as shall please Your Majesty to appoint; there being many matters therein contained, which in a Law would not so well futurely sort with the Power requisite to be upheld in this Kingdom, nor yet with Your Majesties present profit; which hath perswaded me to except against such, as I hold best to be silently passed over, and transmit a Paper thereof to my Lord Treasurer.

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It is to be feared, the meaner sort of Subjects here live under the pressures of the great men, and there is a general Complaint, that Officers exact much larger Fees than of right they ought to do. To help the former, if it be possible, I will find out two or three to make examples of; and to remedy the latter, grant out a Commission for examining, regulating and setting down Tables of Fees in all your Courts; so as they shall find Your Majesties Goodness and Justice, watching and caring for their protection and ease, both in private, and publick respects.

I shall endeavour the Lower House may be so composed, as that neither the Recusants, nor yet the Protestants shall appear considerable more one than the other, holding them as much as may be upon equal Balance; for they will prove thus easier to govern, than if either party were absolute. Then would I in private Discourse shew the Recusant, that the Contribution ending in December next, if Your Majesties Army were not supplied some other way before, the twelve pence a Sunday must of necessity be exacted upon them; shew the Protestant, that Your Majesty must not let go the twenty thousand pounds Contribution, nor yet discontent the other in matter of Religion, till the Army were some way else certainly provided for; and convince them both, that the present quarterly payments are not so burthensom, as they pretended them to be, and that by the Graces they have had already more benefit, than their money came to. Thus poising one by the other, which single might perchance prove more unhappy to deal with.

I will labour to make as many Captains, and Officers Burgessees, as possibly I can, who having immediate dependence upon the Crown, may almost sway the Business betwixt the two Parties, which way they please.

In the Higher House Your Majesty will have, I trust, the Bishops wholly for You. The Titular Lords, rather than come over themselves, will put their proxies into such safe hands, as may be thought of on this side; and in the rest your Majesty hath such Interest, what out of duty to the Crown, and obnoxiousness in themselves, as I do not apprehend much any difficulty among them.

To these, or anything else directed by Your Majesty, I will with all possible diligence apply my self, so soon as I shall understand Your pleasure therein; most humbly beseeching, You will take it into Your Gracious Memory, how much Your Majesties speedy Resolution in this great Business imports the prosperity of Your Affairs in this place, and in that respect vouchsafe to hasten it, as much as conveniently may be.

In this Dispatch the Deputy also writ to His Majesty Considerations tending to the Government of the Church. &c. In these words,

May it please Your Sacred Majesty.

Considerations tending to the better Government of the Church and Clergy in this Kingdom, I offer in a Letter herewith sent to my Lord's Grace of Canterbury.

THE present mean condition of this Army, and the necessary course to be held in the speedy Reformation thereof, I fully now set forth in my dispatch to Mr. Secretary Cook.

The

The state of Your Majesties Revenue, the Annual Issues of Your Treasure, and the debt charged upon this Crown upon my coming to the Government; the Propositions humbly offered by me, for the bettering Your Majesties Affairs in this particular, together with a way of raising a constant great Rent forth of the Salt, I have at this time also transmitted to my Lord Treasurer; of all which I beseech Your Majesty at Your best leisure be pleased to take a summary account.

Now I trust the importance and weight of this inclosed Discourse, will recompence for the length thereof, and obtain my pardon, albeit I presume thus to present it immediately to Your Sacred Hands; for indeed I take it to be no less than the Ground-plot, whereupon to set and raise safety and quiet to this Kingdom, as it stands in relation within it self, security and profit, as it is in dependence to the Crown of *England*.

And therefore I do most humbly beseech Your Majesties quickning Spirit may move upon these Waters, that we may from Your Directions receive Life, and from Your Wisdom borrow Light to guide and conduct us along in the way we are to take towards the accomplishment of so happy a Work.

God Almighty assist You in these, and all other Your Counsels, and long preserve Your Majesty in full Power and Greatness, &c.

Dublin Castle.

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As in the life time of the greatest Prelate of this Kingdom, *William Laud*, Arch-Bishop of *Canterbury*, the Vulgar sort would be casting out reflective passages against him; so that Libelling humour was also continued after the death of *William Noy* the Kings Attorney General, the greatest and most famous Lawyer of that age; for after his Decease, (who departed this Life the 9th of *August* this Year) Papers were put upon Posts, reflecting on him, that his Body being opened there was found in his Head a bundle of Proclamations, in his Maw Moth-eaten Records, and in his Belly a Barrel of Soap.

To the most Reverend Father in God, Our right truly, and right entirely beloved Counsellor, *William*, Lord Arch-Bishop of *Canterbury*, Primate and Metropolitane of all *England*.

Charles Rex,

MOST Reverend Father in God, right truly, and right entirely beloved Counsellor, We greet you well There is nothing more dear to Us than the preservation of true Religion, as it is now settled and established in this Our Kingdom, to the honour of God and the great comfort of our selves, and Our loyal people; and there can nothing more

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The Kings
Letter to the
Arch-Bishop
of *Canterbury*

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None to be a
Minister with-
out a Title.

more conduce to the advancement thereof than the strict observation of such Canons of the Church as concern those that are to take Orders in their several times; more especially of keeping that particular Canon which enjoyns, that no man be made a Priest or a Minister without a Title: For we find that many not so qualified, do by favour of other means procure themselves to be ordained, and afterwards for want of means, wander up and down to the scandal of their Calling; or to get maintenance fall upon such courses as are most unfit for them, both by humouring their Auditors, and other ways altogether unsufferable. We have therefore thought fit, and we do hereby straightly require and charge you to call such Bishops to you as are now present, in or near Our City of London, and to acquaint them with this Our Resolution; And further, that you fail not in the beginning of the next Term to give notice of this Our Will and Pleasure openly in Our High Commission Court, and that you call into Our said Court every Bishop respectively that presume to give Orders to any man that hath not a Title, and there to censure him as the Canon aforesaid doth enjoyn (which is to maintain the Party so ordered till he give him a Title) and with what other censure you in Justice shall think fit. And Our further Will is, that nothing shall be reputed a Title to enable a man for Orders, but that which is so by the antient course of the Church, and the Canon Law, so far forth as that Law is received in this Our Church of England. And as you must not fail in these Our Directions, nor in any part of them, so We expect that you give Us from time to time a strict account of your proceedings in the same.

Given under Our Signet at Our Palace in
Westminster, the 19th day of September,
in the ninth Year of Our Reign.

In pursuance of this Letter, the Arch-Bishop of Canterbury writ to the several Bishops of their respective Diocesses, to pray and require them, that at all times of Ordination, they be careful to admit into Holy-Orders none but such men as for Life and Learning are fit, and which have a Title for their Maintenance, according to the Law and antient Practice of the Church; and the Arch-Bishop declared what shall be a Title according to the Canon, which these persons Ordained must have.

1. A Presentation to some Ecclesiastical preferment.
2. Or, A Certificate undoubted, that he is provided of some Church void there.
3. Or, A Grant of some petty Canons Place, or the like, in a Cathedral or a Collegiate Church.
4. Or, A Fellow, or in the right of a Fellow, in some Colledge, in Oxford or Cambridge.
5. Or, A Conduct of Chaplain in some Colledge in Oxford or Cambridge.
6. Or, A Master of Arts of Five years standing, living at his own Charge in either of the Universities.
7. Or the intention of the Bishop that Ordains, shortly to admit him to some Benefice of Curates place then void.

And

And I think the Canon intends, that after a Man is once admitted a Curate, the Parson or Vicar of the Place should not have power to put them off at pleasure, but only for such criminal Unworthiness as might deprive him of his Benefice, if he had one.

By reason of these strict Rules, no Lecture whatsoever was admitted to be a Canonical Title, and so all Ordinations of Ministers to supply Lectures was totally seclused: also no Chaplainship to any Noblemans Family was allowed to be a sufficient Title.

In the Month of February, in Hilary Term, upon an Information in the Star-Chamber against Sir David Fowlis, Sir Thomas Layton, and Henry Fowlis Esq; Defendants, the Cause came to a Hearing.

The Information being opened to the Court was to this effect.

THat whereas several Commissions had issued lately out of His Majesties Court of Exchequer in the 6th, 7th, and 8th Year of His Majesties Reign, directed to the Lord Viscount Wentworth, and to divers other Lords, Knights, and Gentlemen of the best and principal Rank and Quality in those Northern Parts, who were thereby Authoriz'd for the more ease of the Country, to Treat, Commune, and Compound with all and singular his Highness's Subjects of the City and County of York, and other Northern Counties therein particularly expressed, as would make Fine with His Majesty for their Contempts in not attending His Majesties Coronation, to have taken the Order of Knighthood, as they ought to have done; and the said Lord Viscount Wentworth was by express Letters from His Majesty in that behalf specially appointed to be Collector: And albeit the said Sir David Fowlis had received many Gracious Favours both in Honour and Profit, as well from King James, as His now Majesty, which might justly have incited and stirred him up to all dutiful and grateful Thankfulness for the same; nevertheless the said Sir David Fowlis most undutifully, and ingratefully, did not regard the same, but harbored some secret discontentment, and ill affection in his Heart; for when-as the said Lord Viscount Wentworth, and other His Majesties Commissioners, carefully and dutifully intended the due Execution of His Highness's said Commissions, and had by vertue thereof summoned, and given notice to Ralph Ewre, James Penniman Esquires, and sundry others dwelling and inhabiting near unto the said Sir David Fowlis, to attend the said Commissioners at the said City of York, for their Compounding for their said Fines of Knighthood; the said Sir David Fowlis most undutifully endeavoured and practised what he possibly could to oppose His Majesties Service therein, and to dissuade and divert persons from Compounding with the said Commissioners, and many times publicly declar'd his dislike and disaffection of, and to the said Service, which was generally observ'd and noted throughout the Country where he dwelt: which was by him so spoken of intent and purpose, to cause Men to forbear and refrain Compounding, or resorting to the said Commissioners, to make any Composition

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Sir David Fowlis &c. questioned in the Starr Chamber.

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tion for their aforesaid Contempts; and thereby animated and encouraged sundry persons to stand out, and refuse to make any Composition at all, who otherwise would have compounded with the said *Commissioners* for their said *Fines* of Contempt, in not attending at His *Majesties Coronation* to take the Order of *Knighthood*, as aforesaid. And in farther prosecution of his ill affection, and to shew his dislike of the said Service, and the more fully to express and manifest himself, and his desire for the hindrance thereof; he the said Sir *David Fowlis*, at a Publick Meeting, at the House of the said Sir *Thomas Layton*, in the beginning of the *Month* of *July* 1632, did, in divers of his Conferences with Gentlemen concerning the Compounding with the said Lord *Viscount*, and the other *Commissioners* for their *Fines* and Contempts of *Knighthood*, publicly affirm and say; 'That *Yorkshire* Gentlemen had been in time
' past accounted and held stout-spirited Men, and would have stood
' for their Rights and Liberties, and were wont to be the worthiest
' of all other Shires in the Kingdom. And that in former times all
' other Shires did depend, and would direct all their great Actions
' by that Country. And that other Counties, for the most part,
' followed and imitated *Yorkshire*: but now in these days *Yorkshire*-
' Men were become degenerate, more dastardly and more cowardly
' than the Men of other Counties, wanting their wonted Courage
' and Spirit, which they formely used to have. Which said Words and Speeches the said Sir *David Fowlis* then used and uttered purposely to dissuade and discourage persons from compounding for the said Contempts and *Fines* for *Knighthood*, as aforesaid. And the more to encourage those that stood out, and refus'd to compound, the said Sir *David Fowlis*, at the same time and place, extoll'd and highly commended one *James Maleverer* Esq; for denying and refusing to compound with the said *Commissioners* for his *Fines* of *Knighthood*, and said; 'That the said *James Maleverer* was the
' wisest and worthiest Man in the Country; and that he was a
' brave Spirit, and a true *Yorkshire-man*; and that none durst shew
' himself stoutly for the Good of the Country, but the said Mr.
' *Maleverer*, and was to be Honoured therefore. And did very much commend him, both there, and at other places and times, for not compounding. And the said Sir *David Fowlis* being then told, it might perhaps prove more chargeable to the said Mr. *Maleverer*, for his wilful standing-out in that manner; the said Sir *David* replied, 'That the said Mr. *Maleverer* had put in his *Plea*
' thereunto, and would easily procure his Discharge, both of the
' *Fines* and *Issues*. And in truth he had Pleaded in His *Majesties* Exchequer an insufficient *Plea*, and after such time as he had paid 156 *l.* for *Issues*, at last he compounded for his Contempt. And farther to discourage and hinder Men from Compounding; The said Sir *David Fowlis* then also alledged; That in other Counties and Shires they had not advanced their *Fines* of *Knighthood* so high, as was done by the *Commissioners* in *Yorkshire*, saying, that there were many in *Buckinghamshire* and *Oxfordshire*, who did utterly refuse to compound: and thereupon shewed forth a List or Paper of the Names of sundry Persons of those Two Counties, that so refused to Compound. And the said Sir *David Fowlis* taking notice of Mr. *Ewre's*, and Mr. *Pennyman's* compounding with the

Com-

Commissioners, blam'd and reprov'd them for so doing, saying, *That they had by Compounding done themselves some wrong, and that the Country hereafter would be much troubled with such Impositions.* And the said Sir *David Fowlis* farther, to beget and draw a general disobedience in the Hearts of His *Highness's* People, and to cause them to deny and refuse to compound for their *Knighthood-Fines* with the said Commissioners, and to draw a scandal upon the said Lord Viscount *Wentworth*, and to bring him into disesteem in the Hearts and Minds of the Gentlemen of that Country, publickly said and pretended; ' That the People of *Yorkshire* did adore him the said Lord Viscount *Wentworth*, and were so timorous and fearful to offend his Lordship, that they would undergo any Charge, rather than displease him; and that his Lordship was much respected in *Yorkshire*, but at Court he was no more respected than an ordinary Man; and that as soon as his back was turn'd for *Ireland*, his Place of *Presidentship* of the Council would be bestowed on another Man. And the said Sir *David Fowlis*, and the Defendant *Henry Fowlis* did, about the beginning of *July* 1632, and at other times publickly, in the hearing of fundry Knights and Gentlemen, to the end to hinder his *Majesties* Service, and to render the said Lord Viscount *Wentworth* odious to the Inhabitants of *Yorkshire*, and the Places and Countries where he was employed as a Commissioner, most falsly and untruly scandalize and wrong the said Lord Viscount *Wentworth*, to have received much Money of the Country for *Knighthood-Fines*, by vertue of the aforesaid Commission; and that his Lordship had not paid the same, either to His *Majesty*, or the *Exchequer*. The contrary whereof did plainly, clearly, and evidently appear by the several *Tallies* and *Constats*, which were produced and shewed in open Court, testifying that the Lord Viscount *Wentworth* had, a year before the speaking of those words by the said Sir *David*, and his Son, paid unto His *Majesties* Receipts for *Knighthood-Fines* the Sum of 24500 *l.* besides other Assignments by his Lordship disbursed about the said Service amounting to about 700 *l.* of his own Money, and more than he had at that time received for His *Majesty*. And the said Sir *David Fowlis*, and *Henry Fowlis*, most falsely and maliciously, not only to the scandal of His *Majesty* and His Justice, but chiefly to wrong and slander the said Lord Viscount *Wentworth*, reported, gave out and affirmed in the Presence of divers Knights, Gentlemen and others, that when the said Lord Viscount *Wentworth* was gone into *Ireland*, all such as had paid their *Fines* to his Lordship, although they had his Lordships Acquittance for the same, yet they would and should be forced to pay the same over again to His *Majesties* use. And the Defendant, *Thomas Layton*, caused his Officer and Bailiff to levy about 39 *l.* *Issues* upon the Goods of one Mr. *Wivel*, who formerly compounded and paid his *Fine* for *Knighthood*, and had his Lordships Acquittance for the same; and that Complaint had been made to the Council at *York*, in the absence of the said Lord President, that the said Sir *Thomas Layton's* Officers or Bailiffs had by his privity exacted and taken 40 *s.* worth of the said *Wivel's* Tenants Goods, by colour of the said *Levy*, for so levying of the said *Issues*, whereby the said Council conceived, that the same would much cross and oppose His *Majesties* said Service, and the Exaction was

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was meet to be punished: and therefore did award, and send the *King's Letter* to the said *Sir Thomas Layton* (being then *High-Sheriff* for the County of *York*) for to appear, and answer an Information Exhibited against him, and his Servants, for such their supposed Exactions in that behalf, as was lawful for the said *Council* to do; and caused the said *Sir Thomas Layton* to be served therewith, who immediately shewed it to the said *Sir David Fowlis*: Then the said *Sir David Fowlis* thereon took upon him in a great Presence and Assembly of divers Knights and Gentlemen of the County (himself being then one of His Majesties sworn Council in the said *Northern Parts*, one of the *Deputy Lieutenants* there, and a *Justice of Peace* in the *North-Riding*, where he then dwelt) to advise and dissuade *Sir Thomas Layton* to yield obedience to His Majesties Letter, which this Court held to be a great Contempt, and Offence; for that he said, that he held it not fit, that the said *Sir Thomas Layton*, being *High-Sheriff*, should appear and answer the said Letter, before he had acquainted His Majesty first therewith, and known the King's Pleasure. The said *Sir David* saying farther, (in scorn and contempt of the said Court and Council, whereof himself was a Member, and by his Oath bound to maintain and uphold the Rights and Liberties thereof to his uttermost) 'That the said Court was a *Paper-Court*, and the said Lord President, and Council, had done more than they could justifie, by sending for the said *High-Sheriff*; and that, if he were in the Sheriffs case, he would not care a Dog's Turd for them. And the more to draw the Council into disesteem and disrespect in those Parts, he the said *Sir David* then also said, That the said Council had nothing to do with a *Justice of Peace*; speaking withall comparatively, That the Office of a *Justice* was above the Council at *York*; the one (meaning a *Justice of Peace*) was by Act of Parliament, the other (meaning the Court at *York*) was made but by Commission. And also the said *Sir David* being reprov'd by some Gentlemen there present, who much disliked his Discourse, yet he answer'd, *He car'd not who heard it, nor if it were proclaim'd at the Cross.*

The Answer
of Sir David
Fowlis.

To this Information *Sir David Fowlis* made this Answer; 'That he hath been so far from opposing the Commission concerning *Knighthood*, as that he hath, according to his Power, advanced the said Service; and that he did perswade *James Maleverer*, and others to submit to the Commissioners, and Compound for their *Fines*. That he did perswade *Sir Thomas Layton* to appear before the Lord *Wentworth*, and the Council, upon the *King's Letter*, and denieth the words charged upon him. He confesseth he did say, that he knew not how His Majesty would take it to have a *High-Sheriff* Committed, and disgraced for executing His Majesties *Writ*: and confesseth, that it appears by the Information, that *Mr. Wivel* had made his Composition for *Knighthood*, and that he receiv'd his Acquittance; nevertheless Process was awarded out of the *Exchequer* for levying *Issues*, amounting to 30 *l.* or thereabout: whereupon this Defendant did say, That if the Lord *Wentworth* had paid in all the Monies he had receiv'd, he might have done well to have taken order, that those who had paid their Money to

to him, should be free from any trouble, and not be compell'd to make double payment.

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Henry Fowlis Pleaded Not Guilty.

SIR Thomas Layton for himself saith; 'That a Letter was served upon him from the Lord President and Council, he being then High-Sheriff of the County, doing matters in the execution of his Office; and that before he was in any Contempt, he was within Three days Arrested by the Pursivant attending the Court, and by him carried Prisoner from his own House to the said Council, about Thirty Miles, and there remain'd in the Custody of the said Messenger, till he had answer'd an Information there preferred against him, and Interrogatories concerning the self-same matter now charged upon him; and before he was discharg'd, paid the said Wivel the Money levied by vertue of the Process, and also paid 40s. more, which (as was pretended) Appleby, the Bailiff, exacted from the said Wivel.

Sir Thomas Layton's Defence.

During all which time of this Defendants restraint, he was High-Sheriff of the County of York, of all which he desireth a Consideration might be had; albeit he might justly Plead the Dependence of the Suit at York, yet he doth wave the same; and doth deny, that if the said 40s. were exacted by the said Bailiff, over and above the 39l. levied upon Mr. Wivel, that the same, or any part thereof came to this Defendant.

And it plainly appear'd to this Honourable Court, by good and sufficient Testimony then openly read; that all the Particulars before-mentioned, wherewith Sir David Fowlis stood charged by the Information, were fully proved against him: whereupon the Court, upon grave and deliberate consideration of all the aforesaid Premises, declared; That the said Sir David had many ways endeavour'd and sought to oppose His Majesties Service, and had withall greatly and highly thereby scandaliz'd His Majesty, who had done him so many Gracious Favours, and affronted His Service, and had unjustly traduced His Majesties Commissioners, and great Officers of State, and shewed exceeding malice to the Lord Deputy: And the said Sir David speaking these words charged upon him, to deter his Majesties Subjects from making Payment of their Fines to His Majesties Receiver, for Knighthood-mony: And that the Court duly weighing and considering the hainousness of the said Defendant's Offence therein, and declaring the same worthy of severe and extraordinary punishment, ordered:

The Judgment of the Court.

That the said Sir David Fowlis, being a principal Offender, shall stand, and be Committed to the Fleet, there to remain during His Majesties Pleasure; and that he shall pay a Fine of 5000l. to His Majesties use; and shall also publickly acknowledge his great and several Offences, both to His Majesty, and the said Lord Viscount Wentworth; not only in this Court, but in the Court of York, and likewise at the open Assizes in the same County, where this Decree shall be publickly read. And farther; That the said Sir David Fowlis is a person altogether unworthy of the Places he holds, as one of the Council of York, Deputy-Lieutenant, and Justice of Peace, who hath breathed

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out so much Faction and Disobedience; and for that he sought and endeavoured to draw disesteem and scandal upon that Court, whereof he himself was a Member, and upon the principal Officer and Member of the said Court, the Lord Wentworth, a Noble Person of singular worth and merit, and worthily employ'd in a matter of greatest Trust and Importance. The Court hath therefore ordered and adjudged, That the said Sir David Fowlis shall, from henceforth, be held, and made incapable to have, or execute any of the said Places, and that he shall pay good Damage to the said Lord Wentworth, Relator in this Court, whom this Court highly commended for vindicating His Majesties Honour, in such a Service of so undoubted Right, justly appertaining to the Crown, and which hath been heretofore taken by many Kings, His Majesties Predecessors, constantly and successively: their Lordships generally condemned the said Sir David therefore, and for the base and scandalous Report, that he so published against the said Lord Wentworth, ordered and decreed, That the said Sir David should pay 3000 l. to the said Lord Wentworth.

And touching the Defendant *Henry Fowlis*, the Court likewise thought him worthy of Censure, and ordered and decreed, That he should stand Committed to the *Fleet*, and pay 500 l. Fine to His Majesties Use.

And forasmuch as the Council urg'd no Proof against Sir *Thomas Layton*, they dismissed him from any farther attendance.

This Year also, in Hillary-Term, a Cause came to Hearing in the Court of Star-Chamber, wherein *William Noy Esq;* The King's Attorney-General, Plaintiff; *William Prynne Esq;* *Michael Sparkes*, *William Buckner*, and others, were Defendants.

Mr. Prynne's
Cause in the
Star-Chamber.

THE 7th of February Mr. *William Prynne*, utter Barrester of *Lincolns-Inn*, was brought to the *Star-Chamber*, together with *Michael Sparkes*, *William Buckner*, and Four other Defendants, upon Mr. Attorney *Noy's* Information, which being opened by Mr. *Hudson* of *Grays-Inn*, did set forth, That about 8 Car. Reg. Mr. *Prynne* compiled and put in Print a Libelous Volume, Entituled by the name of *Histriomastix* against Plays, Masques, Dancings, &c. And although he knew well, that His Majesties Royal Queen, Lords of the Council, &c. were in their publick Festivals, and other times, present Spectators of some Masques and Dances, and many Recreations that were tolerable, and in themselves sinless, and so published to be, by a Book printed in the time of His Majesties Royal Father: yet Mr. *Prynne* in his Book hath railed, not only against Stage-Plays, Comedies, Dancings, and all other Exercises of the People, and against all such as behold them; but farther in particular against Hunting, Publique Festivals, Christmas-keeping, Bonfires, and May-poles; nay, against the dressing up of a House with Green-Ivy: and to manifest his evil and mischievous design in publishing of this Libel, he hath therein written divers incitements, to stir up the People to discontent,

as

as if there were just cause to lay violent hands on their *Prince*; and hath expressed in many Speeches against His Majesty, and His Household, infamous terms unfit for so Sacred a Person. He hath cast an aspersion upon Her Majesty the *Queen*, and railing and uncharitable censures against all Christian People. He hath commended all those that are factious persons, that have vented any thing in any Book against the *State*, as the factious Book of Dr. *Leighton*, *Jo. Mariana* a *Jesuit*, to draw the People from His Majesties Government, which is of a most dangerous consequence to the *Realm* and *State*. His *Book* is of above 1000 *Pages*; and he dealt with one *Michael Sparkes* for the Publishing, Licensing, and Printing thereof, who is a person that is a common Publisher of unlawful and unlicensed Books; and dealt also with Mr. *Buckner*, another Defendant, for the allowing of it for the Press; and with the other Four Defendants to Print part of it, and Publish the same: and by this means this Volume was allowed and published, to the great scandal of the whole *Realm*; and to have this punished according to the demerit of the Cause, is the end of Mr. *Attorney's* Information.

9 *Caroli.*

Mr. *Atkins* of *Lincolns-Inn* (afterwards a Judge in the Court of Common-Pleas) opened Mr. *Prynn's* Answer; and Pleaded,

That he the said Mr. *Prynn*, taking into his serious Consideration the frequent resort of sundry sorts of People to common Stage-plays about the City of *London*; and having read divers *Councils*, *Laws* and *Statutes* of this and other Realms, against the frequenting of common Stage-plays, and the Judgment and Opinion of several Divines, and other Ancient Authors, and divers *English* Writers allowed by publick Authority, and his own Judgment running with those; not intending to reflect, or to have relation to the *King*, *Queen*, *State*, or *Government*, or your Lordships, did about Seven years ago compile this Book Entituled *Histrion-mastix*; which is no more but a Collection of divers Arguments and Authorities against common Stage-Plays. That about Four years since he did commit the same to *Michael Sparkes*, one of the Defendants, to be commended to such Persons as then had Authority to License Books for the Press. *Sparkes* did carry it to Mr. *King*, belonging to the late Arch-bishop of *Canterbury*; and before he had perus'd this Book, Mr. *Buckner* had Authority to allow of the Books to the Press: *Sparkes* brought this Book to Mr. *Buckner*, who kept it by him Three Months, in which time he did fully peruse it. In the interim, he gave part of the Book to *Sparkes* to print, and kept the rest till he had perus'd it, and said that he should have that also to the Press. In *October* following he carried this Copy with the License, and caused them to be entred into *Stationers-Hall*, and did compound with those that had Authority for the Printing of this Book. It was printed publickly, and not secretly; and because there were some of the Copies close written, he caused those to be brought again to peruse, to the intent that he might not be deceived in them; and as he saw cause, corrected them accordingly. That in *Easter-Term* was Twelve-month, the *Epistle*, and the whole

Mr. *Prynn's*
Answer in
Star-Chamber.

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first part of the *Book* was printed; and he had time to examine it between *Easter Term* and *Trinity*, and then he did make such Alterations as he saw cause, viz. in *Page 711*, &c. and afterwards the *Second Part*, and Two Sheets of the *Index* of the *Book* was likewise Printed, and these were likewise brought to Mr. *Buckner*; so that the whole *Book*, with the *Index*, was bound up about *Christmas* following, which was *Christmas* was a Twelve-month. Mr. *Buckner* sent for Mr. *Prynn*, and the *Stationer* was desirous that the *Book* might be Published, and that he might send some Volumes to him; but Mr. *Buckner* said he could wish the word (*Pity*) in such a Page might be left out, and I wish with Mr. *Buckner*, that *Pity* may be added to every Page of the *Book*. So when Mr. *Prynn* saw all this from him, that had Licence to allow Printed Books, he conceived it a sufficient Warrant for his Proceedings. And for that which is alledged in the Information of Mr. *Prynn*'s commending Dr. *Leighton*, for which the Dr. receiv'd a Censure in this Court, in the Quotation whereof, viz. his *Book*, and of others, he adhereth to their meaning so far as, and wherein they are agreeable to the Law; and this *Book* was printed long before Dr. *Leighton* was question'd in this Court. And as for encouraging of others to be factious or seditious, he saith upon his *Oath*, That he was so far from Disloyalty, Schism, or Sedition, or neglect of the *King*, *State*, or *Government*, that he hath with much Joy, Cheerfulness, and Thankfulness to God, ever acknowledged his, and the rest of the *King*'s Subjects Happiness, by the Peace we have under His Majesties happy Government; and this Answer and Intention is sincere, though other construction be made thereupon. He saith he hath taken his *Oath* of *Supremacy* and *Allegiance* in the *University* and *Inns of Court*, where he hath taken his Degrees. That it never came into his thoughts to approve of Schism or Sedition: and if any thing in his *Book*, contrary to his meaning, hath a mis-construction towards His Majesties Government, State, or your Lordships, he doth prostitute himself at His Majesties *Royal Feet*, and crave Pardon and Grace. And he doth appeal to your Lordships Interpretations of those Parts of his *Book*; and doth withal desire your Lordships favour, and to take it into your Consideration, that he hath been a year Prisoner in the *Tower*: and this is the substance of his Answer.

Mr. Jenkins of Grays-Inn opened the Answer for Four of the Defendants.

First, for the Poor Widow he saith, for any manner of combination, or knowledge of this *Book*, or of the Contents of it, &c. she knoweth nothing. For the rest, they all say, they being Illiterate, were not able to judge, whether it were fit to pass the Press, or not; That the *Book* was *Licensed* to be Printed, allowed after it was Printed, and before it was Published, and it was Entred in the *Stationers-Hall*, and the *Warden* there allowed and subscribed it to be a *Book* passable. The *Book* hath been Three years in the *Press*. All this time was spent before it was printed: there were Searches made during this time, and they came unto the *Press*. They saw the *Book* there in a publick way, and not in Corners, or private.

privately Printed, as is alledged in the Information ; and it was Printed and Published, and some of the Books sold by *Sparkes*: and *Sparkes* saith the Printing of this Book cost him almost 300 l. and saith upon his Oath he sold not many Books.

And for the Charge upon him of *being a common Printer of unlawful Books*, he saith, he hath prospered in his Calling; and some other *Stationers* having an Eye upon him for his thrift, have envied him in publishing of Books; and leaveth it to my Lords the Bishops, to know what success he hath had in the *High-Commission*.

Mr. *Lightfoot* of *Grays-Inn* opened Mr. *Buckner's* Answer.

He saith, that he was *Chaplain* to the late Arch-Bishop of *Canterbury*, and doth approve of the Church without any scruple, and of all the Ceremonies of *England*. Church-musick he doth allow of; bowing at the Name of *Jesus*: Plays, Musick and Dancing, he doth esteem them just and lawful. And for those Censures against Ecclesiastical Persons in this *Book*, he doth, and ever did abhor and detest them. He confesseth he Licensed part of the Book, but never gave order to disperse the Book: but when he heard it was published, he did endeavour to suppress it; and to the rest of the Information pleadeth *Not Guilty*.

Then Mr. *Noy*, Attorney-General, spake as followeth.

This Volume of Mr. *Prynn's* is written by himself without the help of any man. There are passages in it that reflect upon the King, State and Government, &c. other things reflect upon the Church and Clergy; but for that there is no Charge in the Information, which I did conceive fitter to be left out, and withal I received a Command for the same: therefore finding the Church so deeply wounded by Mr. *Prynn*, I do leave Her to avenge Herself of him, and to inflict such punishment on him as he deserves. I shall be an humble suitor to the Court, that they would be pleased to commend the prosecution of those things that concern the Church to the *High-Commission*. There are divers particulars wherewith he is not charged within the Information by way of Crime, and so it is not proper now to bring him into question for them: as for mentioning of Ceremonies, &c. of *Dedicating Paul's* to *Diana*; of the Discipline of the Church; the complaint of new-erected Altars. I wonder what Altars he means: I hope the Church will examine him in due time; as also who he means by his *Modern Innovators* in the Church, and by *Cringing and Ducking* to Altars, a fit term to bestow upon the Church; he learned it of the *Canterers*, being used among them. The Musick in the Church, the charitable term he giveth it is, Not to be a Noise of Men, but rather a *Bleating of Bruit Beasts*; *Choristers bellow the Tenor*, as it were *Oxen*; bark a *Counter-point* as a *Kennel of Dogs*; roar out a *Treble*, like a sort of *Bulls*; grunt out a *Base*, as it were a number of *Hogs*: his complaint for suppressing Repetitions by way of *Conventicles*; also his general Censure of all the Bishops, and of all the Clergy; they scorn to feed the Poor; the *Silk and Satin Divines*;

9 Caroli.

Mr. Noy pleads
against Mr.
Prynn.

An. 1633. *vines* ; very charitable terms upon them of the Church ! *Christmas*, as it is kept, is a *Devils Christmas* ; nay he doth bestow a great number of pages to make men affect the name of *Puritan*, as though Christ were a *Puritan*, and so he saith in his *Index*. Then concerning the Images in the Church, he speaketh against them, and putteth that now in Print, which was contained in an Answer in this Court. Also for the *Sabbath-day*, whether to begin on *Saturday night*, and end on *Sunday* at fix of the Clock. These are things proper to the examination of the Church ; and whatsoever becometh of the rest of the Cause in this Court, yet I commend these things to the Consideration of the Church. I wonder what the man means to bring these things under the Title of *Stage-Players* ; *Pluralities* under the Title *Stage-Players*. He had an end in it ; he had an end in it.

Now concerning the Book it self.

This Book, said Mr. Noy, it is the witness, it doth testifie what was his intention, and by the Book he is to be judged. If it had been found in the Street, and of Mr. *Prynn's* Compiling, and brought to this Court, and consideration taken of it, the Court would proceed without a Party against Mr. *Prynn*. And here Mr. *Attorney* recited a Precedent of one that wrote a *Book*, and it was brought to the Council. It was demanded who was the *Accuser* ? Answer was made, the *Book* was the *Accuser*. Shall the Heretick go unpunished ? This Book it is Mr. *Prynn's* doing, he doth put his Name to it, he swears that he did write it all.

Then for the time of Compiling it ; seven or eight years ago it was Compiled, and is grown seven times bigger than at the first. Mr. *Prynn* about eight years since shewed it to Dr. *Goade*, who told him so good causes of dislike, that might make any reasonable man give it over. About seven years ago he came to Dr. *Harris* to desire his opinion of the Book ; and he told him it was unfit, and unworthy to come to the *Press*. In the Parliament-time, before the year 1630, he gave some part of it to be Printed ; but it came not to Mr. *Buckner* long after. *Sparks* said he would Print any thing in Parliament-time.

Now we are to Consider two things, from the first Compiling and Printing of this Book, to the last.

First, how it grew in Volume ; for after it was delivered to the *Press*, it hath grown up with divers things, which then were impossible to be known at that time, when it was delivered to the *Press* ; which appeareth by this. In 1628 was the *Parliament*, and in 1631 St. *George* began to look abroad into the World. This man bestows eight whole pages upon St. *George*, for being so bold to look out. He saith, that St. *George* the *Arrian* was a *Cappadocian*, though born in *Cilicia*, a Part or Province of *Cappadocia*, &c. and that St. *George* his Advocate was an *Englishman* born in *Glocester* ; and that St. *Basil* the Great was Bishop of *Cesarea* in *Cappadocia*, the Native Country of St. *George* the *Arrian*. Certainly he could

could not tell that St. George would then remove himself abroad, or in the County of Gloucester, &c. at that time: but this man did go on according to the occasion in 1628. A Woman 1628 acted a part of a Stage-play, at Black-friers; he spends many pages about this.

We all know what time the Dearth was, three years ago, he taketh occasion not to pass it over. He maketh a long Discourse of Playes, Masques, &c. in the late penurious times, how they were as expenceful as the Wars were. This is to shew how by pieces it did grow bigger from time to time.

All Stage-Players he terms them Rogues: in this he doth falsify the very Act of Parliament, for unless they go abroad they are not Rogues. The same term he giveth unto Scholars Acting. Mr. Prynne had a purpose, not only in this to fall upon Stage-Plays, but upon the Body of the Common-wealth, and to infuse it into mens minds, that we are now turning into Paganism and Gentilism. He falleth upon those things that have not Relation to Stage-plays, Musick, Musick in the Church, Dancing, New-years-gifts, whether Witchery or not? Witchery, Church-ceremonies, &c. indistinctly he falleth upon them; then upon Altars, Images, Hair of Men and Women, Bishops and Bonfires. Cards and Tables do offend him, and Peruques do fall within the compass of his Theme. St. George never offended him; but all this is to the end to bring a belief among the people, that we are returning back again to Paganism. His end is therefore to perswade men to go and serve God in another Country, as many are gone already, and set up new Laws and Phancies among themselves. Consider what may come of it.

It may be fit enough and lawful to write against Plays, by men that have a Mission; and they must do their errand in mannerly Terms, and in the same Terms as other men expect to bear with them:

Mr. Prynne had no Mission to meddle with these things, to see whether men should not return to Gentilism; the Terms which he useth are such as he finds among the Oyster-Women at Billingsgate, or at the Common Conduit. He hath raked up all the vile Terms that could be found.

Now to prove that this is Mr. Prynne's Book, read Mr. Prynne's Examination, Inter. 5th (which being read, was to this effect) That Mr. Prynne, without the help of any other, did Write, Pen and Compile the whole Book, called *Histrio-mastix*, and the Epistle before the Book, and the Index and Table following.

Now for the publishing of this Book, it doth appear by the Deposition of Dr. Goade, that about eight years since, Mr. Prynne did bring a Book to him in writing, of about a Quire of Paper, concerning Stage-Plays, to have the same Licensed, but he held it unfit to be allowed; and doth well remember, that as to his Argument of the unlawfulness for a Man to put on Woman's Apparel, he put Mr. Prynne this Question; Suppose Mr. Prynne your self, as a Christian, were persecuted by Pagans, think you not, if you did disguise your self in your Maid's Apparel, you did well? Who answered, that he thought himself rather bound to yield to death than to do so.

Dr. Harris

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Noy.

Dr. Harris also deposed, that about seven years ago, Mr. Prynne came to him to License a *Treatise concerning Stage-plays*, but he would not allow of the same. So this man did deliver this Book when it was young and tender, and would have had it then Printed; but it is since grown seven times bigger, and seven times worse.

We shall now prove when it went to the Press.

Read *Austin the Stationer* to Interrogatory the 28th, which being read, was to this effect; That the said Book called *Histrion-mastix*, was given to this Deponent, in, or about the last Parliament, at which time seven Sheets thereof were Printed, at this Deponent's House; which this Deponent so Printed, at the request of Mr. Prynne and Mr. Sparkes; upon Mr. Prynne's Information, that it was Licensed, and that he would bring the hand of the Licenser unto it: But this Deponent did refuse to Print any more of the same.

Read *Joseph H.* to prove that *Sparkes* would set upon it unlicensed in *Parliament-time* to Inter. 26, who saith, that the Defendant *Sparkes* did, in the time of the last *Parliament*, Print, or cause to be Printed divers Books *without License*; whereof some were Mr. Prynne's, some were Mr. *Burton's* Works: and this Deponent hath heard *Sparkes* say, he durst Print any thing in *Parliament-time*.

Another part of the Charge was managed by Mr. *Mason* of *Lincolns-Inn*, reckoning up the number of *Epithets*, wherewith Mr. Prynne had aspersed all sorts of People; and he said, that it was a *Libel*, not only against the State, but against every particular Person; and proved the Charge by divers passages contained in the Book, *Fol. 201, &c.*

Afterward Mr. *Noy* proceeded in the farther making good of his Charge against Mr. Prynne.

May it please your Lordships,

As he hath fallen foul upon all Things, all Persons, all Sexes; upon the Magistrates, upon the Household of the King; so he hath not spared the King himself. I am sorry I shall have occasion to speak any thing of it; but there is a great deal too much in his Book. My Lords, After he hath made all these complaints as intolerable, he falleth upon all indistinctly, and never taketh upon him to discern to make a distinction, that there may be a toleration, but falleth foul upon every thing, that we are falling into *Paganism*; men and women are naught: he spareth not the King himself, but takes upon him to teach a remedy; the remedy is worse than the Disease. What hateful comparisons he bringeth with other Princes? As *Nero*; and speaketh of the consuming of the *Treasure* of the *Realm* with *Masques*, and of the late penurious Times; a base word! a declaration of Infamy upon *Princes*, with such like Conclusions as these are. When all this is done, he teacheth the Remedy not by way of Precept, but by way of Example; invites men to read *John Mariana*, and two Grave Authors more, he saith men not censured. I am very sorry I am to speak any thing wherein

wherein the King should be named, but he would not forbear it when the Pen was in his Hand; some of the Words are so Nasty that I will not speak them.

9 Caroli.

After Mr. *Attorney-General* had spoken, he called for these passages, amongst others, in *Histrion-mastix*, to be read, viz.

To his much Honoured Friends, the Right Worshipful Masters of the Bench of the Honourable Flourishing Law-Society of *Lincolns-Inn*.

HAVING, upon my first arrival here in London, heard and seen in four several Plays (to which the pressing importunity of some Ill-acquaintance drew me, while I was yet a Novice) such wickedness, such lewdness as then made my penitent Heart to loath, my Conscience abhor all Stage-Players ever since; and having then likewise observed some woful experiments of the Lewd, Mischievous fruits of Plays, of Play-Houses in some young Gentlemen of my acquaintance; who though Civil and Chast at first, became so Vitious, Prodigal, Incontinent, Debauched (yea so far past all hopes of amendment) in half a years space or less, by their resort to Plays, where Whores and Lewd Companions had inveagled them; that after many essays of their much desired reformation, two of them were cast off and utterly disinherited by their loving Parents; whom I heard oft complaining, even with Tears, that Plays, and Play-Houses had undone their Children, to their no small vexation, (a good Caveat for all Young Students to keep themselves from Play-Houses, by these two Youngsters harms.) Hereupon I resolved, out of a desire of the publick Good, to oppugn these common Vice-fomenting-Evils: for which purpose about seven years since, recollecting those Play-condemning passages, which I had met with in the Fathers and other Authors, I digested them into one intire Written Discourse, which having since that time enlarged beyond its intended Bulk, because I saw the number of Players, Play-Books, Play-Haunters, and Play-Houses still increasing; there being above forty thousand Play-Books Printed within these two years (as Stationers inform me) they being now more vendible than the choicest Sermons; two old Play-Houses being also lately re-edified, enlarged, and one new Theatre erected: the multitude of our London Play-Haunters being so augmented now, that all the Antient Devils Chappels (for so the Fathers style all Play-Houses) being five in number, are not sufficient to contain their Troops; whence we see a sixth now added to them: whereas even in Vitious Nero's Reign there were but three standing Theatres in Pagan Rome, though far more spacious than our Christian London, and those three too many. Hereupon I first commended it, being thus augmented, to the Licenser, and from him unto the Press, where it hath lingred longer than I did expect; which being now at last brought forth into the World, in such a Play-adoring Age, that is like to bid defiance to it; I here bequeath it to your worthy Patronage, to whom it was first Devoted, not caring how it fares abroad, so it may do good and please at home.

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In the next place Mr. Attorney Noy caused to be read out of the Book of *Histrion-mastix*, such Passages, as were scandalous to the King and Government, as *Fol. 312, &c.*

Mr. Atkins in defence of Mr. Prynne, said, That

The Eloquence of those Gentlemen who argued against Mr. Prynne, made an exposition which was no part of his intention, in which point he would endeavour to clear him; and the way was by letting their Lordships know, that many passages in that Book are only *Relatively* spoken, and not *Positive*, and most of them are but the affirmations of other Authors of several kinds and professions: as where it is said, that *such incarnate Devils as frequent Plays, &c.* he speaketh by the way of common frequenting of Plays, lest they prove incarnate Devils; and so of Ladies that cast off their Nature and Modesty, that is relatively spoken by frequenting Plays, lascivious Dancing, &c. and when he speaketh of those in a continual Proposition, his Argument is thus;

‘That which doth ordinarily (if not always) defile the Eyes, the Ears, and Souls both of the Actors and Spectators, by ingendring, by exciting Meretricious, Lustful, Lewd, Adulterous Desires and Affections in their Hearts, or by instigating, by preparing, by inducting them to actual uncleanness, must needs be abominable and unlawful unto Christians; but these Stage-Plays, &c. therefore they must needs be abominable. And there is none but Whores, Panders, or foul incarnate Devils, who dare control that Minor truth.

My Lords,

He doth not condemn *New years-Gifts*, but acknowledges them to be as tokens and testimonies of favour and respect from Superiours to their Inferiours; and for dancing, (under favour) he doth not condemn it at all; he hath commended the same as single, and dancing the Measures. And for dancing in great Men and Princes, he doth protest it was far from his thought to compare these times to Nero’s, under so Pious and Religious a Prince as we have, and by whom we receive so much happiness. That had been so impious and unworthy, that he could by no means make any Apology; but as well his Person as his Pen should have been detestable, if he had made any such comparison.

And where he doth speak that Dancing and Masquing, have been near as expenceful as the Wars, in that he means in *Henry the 8th* time, and not in these days; as I take it, he speaks there of a History, that doth express the great charge in that time.

I shall desire, as I did begin in the opening of his Answer, that he may lay fast hold upon the Rock of the King’s Favour and Mercy, and Compassion of this Court; and what his intentions are, they are best known to his own heart, his expressions known to your Lordships. I cannot condemn his Heart, I will not excuse his Pen.

This if your Lordships will give me leave I shall say; I have long known him in a Society of *Inns of Court*, where he has lived; and for his ordinary discourses (except the matters in this Book) they

they have not been factious or seditious. But now he is before your Lordships, truly for my part, I compare him to the condition of an *Astronomer*, that fixed his Eyes so much upon the Stars, that he did not look to his Feet, and so fell into a Ditch: for his Eyes were so fixed upon this Subject, upon the common resort to *Stage-Plays*, and the great abuse that comes by them, that he forgot to look down to his hand that guided his Pen, which now bringeth him under your Lordships censure.

That I may not offend the patience of this Court, (the Court is full, and the expectation is great;) I will conclude with all humility, and wish and crave, that he who is the supreme Judge may be with your Lordships in this matter, and may be over all your good Thoughts, Judgments and Sentences this day, in this cause of this poor Gentleman. And this is all I humbly offer in defence.

The next day of hearing, Mr. Holborn of Council with Mr. Prynne, spake thus:

My Lords,

I am assigned Councillor with Mr. Prynne. The information is for publishing in Print a *Libel* or *Volume* of *Libels* against King, Queen, State, &c. My Lords, for Mr. Prynne, he doth humbly cast himself at your Lordships Feet. For the Book, I must say, he doth humbly submit himself to your Lordships; yet, my Lords, his heart will not give him leave to say, that he is guilty of those gross Offences, that are laid to his Charge. He confesseth himself to be justly brought before your Lordships for his ill expressions, which may prove an occasion of scandal by misconstruction, and so some dangerous principle may be infused into the Subjects: And he beggeth your Lordships to consider of them, according to the intentions of his heart, which were fair and honest, though harsh in expression, that he may receive a favourable construction, for that he citeth his Authors, and their Words, and not his own. And for that he meddled with matters not proper to *Stage-Plays*, as in mentioning the Sabbath, his meaning was, *Stage-Plays* upon the Sabbath day: his mentioning Habits and Recreations, was in relation to Men putting on Womens Habits, and unlawful Recreation at Plays, and so he conceives them not altogether impertinent.

For the manner of his Writing, he is heartily sorry, that his stile is so bitter, and his imputations so unlimited and general; yet in this, he was led thereunto by Authors in the like case, which he offers for his excuse; he hopes his passion against these abuses by *Plays* may a little plead his excuse.

Now for the manner and matter alledged against him out of his own Book, in that he hopes your Lordships favour: he saith, that those that are Judges of the Book for Licensing, they are guilty of the matter, and he hopeth that this Book doth differ from all the Books brought into this Court; for here are none brought but such as are Unlicensed, and this is Licensed: and he submitteth thus to his point.

My Lords, as to the general end and intention of his Book, he saith, that the general resort unto Plays was the first occasion, and his end was for the reformation of the abuse of it; and

Mr. Holborn
pleads for
Mr. Prynne.

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no otherwise ; and then, *my Lords*, he hopeth he shall not incur your Lordships severe Censure. He did not send the Book beyond the Seas to be Printed, but Printed it here, and it was three years in the Press, and Licensed and published.

And *my Lords*, the Declaration to the Information of this Court, speaketh something to his Intentions, *viz.* to whom he dedicated this Book, and he dispersed it himself to men of known integrity ; and certainly if his heart had been guilty of those foul crimes, he would not have presented one of these Books to Mr. *Attorney Noy* himself. He did not absent himself, as one guilty of such offences would have done ; he was so far from having disloyalty, that he doth commend the King and State, and that could not be with an intention against King and State. And all the charges that lye upon him for his foul intentions, are but inferences upon his Book, and consequences, and such of them only that be strained, and not of necessity.

The next thing charged upon him is *Perjury*, for that he said he shewed no part of this Book to any before it was shewn to *Sparkes* ; yet it was proved by Dr. *Harris* and Dr. *Goad*, that they saw it many years ago. As to this he saith, they speak only of his Book concerning *Plays*, containing a quire of Paper, and that it is true, he did shew them such a Book ; but that Book was not this Book, though they be of one Subject and Matter, yet they differ much in form and frame.

Then Mr. Hern spake on his behalf as followeth.

My Lords,

Mr. *Hern*
pleads on the
behalf of Mr.
Prynne.

We that are assigned Councel for Mr. *Prynne*, do come with great disadvantage, both in Number and Judgements, considering the great ability of the King's Councel, who have spoken against us. If the construction they have made be theirs, then clearly we are (as they would have us) to fall deep by your Lordships Sentence.

The weight of this Cause, and the aggravations upon it by the King's Councel, made me the last day (without desire of my Client) to crave farther time, for we durst not then give any answer. All that I can now say is, that your Lordships would look upon the intentions of his Heart, in that he hath explained himself as fair as any man can do by his Oath ; how is it possible to make other proof of the clear intentions of his heart, than by his Oath ? His Oath is admitted as proof against him, in the acknowledgement of his Book ; and shall it not be admitted for him, to clear the integrity of his heart ? We beseech your Lordships to look upon him, as not writing these things out of perverseness of spirit, but out of the abundance of his heart transported with zeal against the growing evils, which have befallen many of this Nation, and some of his own acquaintance, by their frequenting of *Stage-Plays*. We that know him, must say as far as our knowledge will give us leave, that in all passages that have fallen from him, to us he hath expressed himself full of Devotion and Duty to His Majesty and the Queen ; and shall humbly take leave to offer some passages out of his Book, which do bear evidence, that he doth

do h speak well of both their *Majesties*, and of the State; and that by inferences and distinctions there made: and what is it but Inferences made out of other passages of his Book, which doth reflect upon him? Which passages were opened by the Councel, but not read.

9 Caroli.

Three *Star-Chamber* days having been spent in the hearing of this Cause, the Lords fate the fourth day to proceed to Sentence, which held till four of the Clock in the afternoon; and they passed such sentence on Mr. *Prynn*, as is expressed in the ensuing speeches, which in effect comprehend all that was said by others.

The Court proceeds to give their Judgement.

The first was of *Francis Lord Cottington*, Chancellor of the *Exchequer*, whose turn was to begin first to speak, as being in the lowest degree of quality by his place; and commonly he that beginneth, as he openeth the matter at large, so he inclineth thereby many Lords to forbear making of Speeches, and only to declare themselves to concur in Sentence with him that began first, or with some other Lord that spake before, as their Judgments lead them.

My Lords (said my Lord Cottington.)

His Majesties Attorney General hath brought Mr. *Prynn* before your Lordships, with other Defendants *Thomas Buckner, Michael Spark, &c.* It is for publishing a *Libellous Book*, or Volume of *Libels*, to the scandal of His Majesty and the State. To my understanding it may be more properly said, the great and high malice of Mr. *Prynn* published and declared in that *Libellous Book*; a malice expressed in a manner against all mankind, and the best sort of Mankind, against King, Prince, Peers, Prelates, Magistrates and Governors, and truly in a manner against all things. But that which hath been more remarkable, is his spleen against the Church and Government of it; therefore for that I will not sentence him, (because Mr. *Attorney* doth forbear to prosecute against him, for that which belongeth to the Church,) yet it is an argument of his great and high malice: and when I consider of that, which hath been so often repeated, that he writ this Book alone, surely he was assisted immediately by the Devil himself, or rather he hath assisted the Devil. He hath written a Book against the due reverence and honour, which all Christians owe to our Saviour *Jesus*, this doth convince my Judgment against him; but the Book (as Mr. *Attorney* saith,) declares the man, it is the witness: And if your Lordships observe the particulars and stile of it, you will say it is a strange thing; the very stile doth declare the intent of the man, and that is (as Mr. *Attorney* said,) to work a discontent and dislike in the King's people against the Church and Government, and disobedience to our gracious Sovereign the King. If Mr. *Prynn* should be demanded what he would have, he liketh nothing, no State or Sex; Musick, Dancing, &c. unlawful even in Kings; no kind of Recreation, no kind of Entertainment, no, not so much as Hawking, all are damned. The very truth is, Mr. *Prynn* would have a new Government, he would have a new Church, he would have new Laws, new Entertainment, God knows what he would have; a new King he would have, and have all the people

Lord Cottington's sentence of Mr. Prynn, and other Defendants.

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ple of his mind, to be discontented with their King and Government.

Mr. *Prynn* confesseth he did write the Book, and it's true he did endeavour the Printing of it, and the Publishing of it, this is proved very well; yea but Mr. *Prynn* had no other intention but a tenderness of Conscience, he meant no hurt to the *King* or State, (as his Councel said:) but Mr. *Attorney* answered them, that he is not the Declarer of his Intentions, he must be judged by the Book, by his Words, more certainly by the effect; for all good men do receive scandal by this Book, and all of Mr. *Prynn*'s humour were glad of this Book. When I consider what kind of *Libel* it is, it is not like other Libels: other Libels have been by persons discontented, some poor Rogues, scattered up and down; but here's a Libel in *folio*, and in Print, and justifieth it self by Authors with an high hand, *That is there, and that is there.* And, (*my Lords*,) when I consider those high passages in his Book, I protest unto you they are things to be abhorred; they are not spoken relatively (as his Councel would have it) but positively, *That our English Ladies, Shorn and Frizled Madams, have lost their Modesty; that the Devil is only honoured in Dancing; that Plays are the chief delight of the Devil; that they that frequent Plays are damned, and so are all that do not concur with him in his opinion, Whores, Panders, foul Incarnate Devils, Judases to their Lord and Master, &c. Princes dancing in their own Persons,* his censure of them is *Infamous, &c.* But the foulest of all is, *That this was the cause of untimely ends in Princes.*

My Lords,

Shall not all that hear these things think, that it is the Mercy of the King that Mr. *Prynn* is not destroyed? have we not seen men lately condemned to be hanged and quartered for far less matters? One (*Pinchman*) I was myself imployed with others in the examining of him; he confessed, that the writing for which he was questioned was a *Sermon*, that he did intend to Preach: the words were against the person of the King, yet he never Preached it; yet because he had written it with an intention to preach it, he was brought upon this point and condemned to dye. But this Book is in Print; it is against all Magistrates, and particularly against the King our Sovereign, and his blessed Consort. And yet, *my Lords*, it pleaseth his Majesty to let Mr. *Prynn* have his Trial here. I will not trouble your Lordships with any more parts of the Book: Mr. *Attorney* noted unto your Lordships, that you should see how necessary it was, that Mr. *Prynn* should be clean cut off, as one that hath a long time endeavoured to move the People to disobedience against the King, &c. So I say with Mr. *Attorney*, it is high time that Mr. *Prynn* may be cut off so far as may go with the censure of this Court. *My Lords*, Mr. *Prynn* is better dealt withal, than he would have *Princes* dealt with; he hath had very fair trials.

For his Defence, I took notice of it likewise, I do remember that all those Gentlemen, that were imployed and assigned as Councel for his Defence, every one of them began to crave Mercy of the Court; yet they came with a defence and justification so far as their cause would bear. Mr. *Holborn* said, that for *Players* they were Rogues by the Statute: yet Mr. *Attorney* said, *they are not Rogues*

Rogues by the Statute, unless they wander, &c. My Lords, he said, his intention was against *Publick* and *Common-Plays*, yet seek all his Book thorow, and you shall find it is against Plays in *Princes Palaces*. His intention now must be understood by his *Book*, and by his words; and that which he doth apply of any Author is his own. And I think his defence did aggravate his offence. As to his defence against the *Ladies*, he saith, he speaketh it *Relatively* and not *Positively*, yet he saith, *our English Ladies are so and so whorish, &c.* And for that part of his Book, wherein he condemns Murder, Mr. *Prynn* will have Murder unlawful, but execution of *Princes* is not Murder, and therefore that is a lawful act. Mr. *Attorney* said well, the end of this man and *John * Mariana, &c.* they are all one, they all cry malice against *Princes*.

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* A Jesuite.

I shall humbly crave pardon, and discharge my Conscience, and shall let your Lordships see, how I do understand the sense, and that so I am to judge, and I conceive it to be as your Lordships see, that the malice in this Book is against *King* and *State*, and, my Lords, with this I Sentence Mr. *Prynn*.

I do in the first place begin Censure with his Book; I condemn it to be burnt, in the most publick manner that can be. The manner in other Countries is, (where such Books are) to be burnt by the *Hang-man*, though not used in *England*, (yet I wish it may, in respect of the strangeness and hainousness of the matter contained in it) to have a strange manner of burning; therefore I shall desire it may be so burnt by the Hand of the *Hang-man*.

Mr. Prynn's Sentence.

If it may agree with the Court, I do adjudge Mr. *Prynn* to be put from the *Barr*, and to be for ever incapable of his Profession. I do adjudge him (my Lords) That the *Society of Lincolns-Inn* do put him out of the *Society*; and because he had his Offspring from *Oxford* (now with a low voice said the Bishop of *Canterbury*, *I am sorry that ever Oxford bred such an evil Member*) there to be degraded. And I do condemn Mr. *Prynn* to stand in the *Pillory* in two Places, in *Westminster* and *Cheapside*, and that he shall lose both his Ears, one in each Place, and with a Paper on his Head, declaring how foul an Offence it is, viz. *That it is for an Infamous Libel against both their Majesties State and Government.* And lastly, (nay not lastly) I do condemn him in 5000 *l.* Fine to the *King*. And lastly, *perpetual Imprisonment*.

There are other Defendants, *Thomas Buckner*, whom I conceive to be the *Chaplain* charg'd with the Licensing of the Book. I observe, that Mr. *Attorney* hath little or nothing prosecuted against him. It is said he did combine with the *Writer* and *Stationer* for this infamous Libel. It doth appear that he did License it, or at least 64 Pages thereof; I think it be also true, that Mr. *Buckner* did see the Book after it was printed. It is said, for his excuse, That Mr. *Buckner* was cozen'd and surpriz'd by Mr. *Prynn* and *Sparkes*, but it's plain he Licensed it, or at least 64 Pages; therefore I shall judge according to the Proof, as it is the usual Custom of this Court. I must judge Mr. *Buckner* to be worthy of a very sharp Sentence, for certainly there is a very great inconvenience falln upon the State, for want of due Examination: To what purpose is

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is there an Examination of Books, if there shall be a connivance and winking at the Party that doth it? I shall think Mr. *Buckner* not only worthy of a severe Reprehension, but I shall Censure him first to have Imprisonment according to the course of the Court, and 50 *l.* Fine to the King

Sparkes's Sentence.

Now (my Lords) the next is *Michael Sparke*, and he is the 3^d, and he is the *Printer* of the Book, and Binder, and Publisher thereof. In his defence he hath shewed your Lordships a piece of the Book Licensed by Mr. *Buckner*, and saith it was all Licensed, but that he proves not; but that it was entred in the *Stationers-Hall*, that he proves. But I do find, that he perswaded Men to buy this Book, after it was prohibited; and before it was prohibited he perswaded Men to buy it, saying, *It was an excellent Book, and it would be called in*, and then sell well. I do Fine *Sparkes* 500 *l.* to the King, and to stand in the Pillory, without touching of his Ears, with a Paper on his Head to declare his Offence, and it is most necessary in these times; and for the Pillory to be in *Pauls Church-yard*. (*It is a Consecrated Place, saith the Arch-bishop of Canterbury*) I cry your Grace mercy (said my Lord *Cottington*) then let it be in *Cheapside*. For the other Three, I find that Mr. *Attorney* doth not prosecute them, therefore, my Lords, I do not Censure them.

The next in course that spoke after the Lord *Cottington*, was the Lord Chief-Justice *Richardson*.

Lord Chief-Justice Richardson's Sentence.

My Lords,

Since I have had the Honour to attend this Court, Writing and Printing of Books have been exceedingly found fault withal, and have received a sharp Censure, and it doth grow every day worse and worse; every Man taketh upon him to understand what he conceiveth, and thinks he is no body except he be in Print. We are troubled here with a Book, a Monster, (*Monstrum Horrendum, Informe, Ingens!*) It hath been a Question who is the Author of this Book: Surely I am satisfied in my Conscience *he is* the Author of it; But truly, give me leave, I do not think Mr. *Prynn* is the only Actor in this Book, but that there were many Heads and Hands therein besides himself. I would to God in Heaven, the Devil and all else that had their Heads and Hands therein besides Mr. *Prynn*, were, &c. for I think they are all ill-willers to the State, and deserve severe punishment as well as Mr. *Prynn* doth. This Book is the subject of this day's work, and it is annexed, by Mr. *Attorney*, to the very Information it self.

For the Book, I do hold it a most scandalous infamous Libel to the King's Majesty, a most Pious and Religious King; to the Queen's Majesty, a most Excellent and Gracious Queen; such a one as this Kingdom never enjoy'd the like, and I think the Earth never had a better. It is scandalous to all the Honourable Lords, and the Kingdom it self, and to all sorts of People. I say Eye never saw, nor Ear ever heard of such a scandalous and seditious thing, as this mishapen Monster is. How scandalous a thing it is hath appeared already to your Lordships, by the King and Queen's Council against Mr. *Prynn*; I will not for my part repeat.

Yet

Yet give me leave to read a word or two, where he cometh to tell your Lordships of the Reasons why he writ this Book: Because he saw the number of the Plays, Play-Books, Play-haunters, and Play-houses so exceedingly increased, there being above forty thousand Play-Books, being now more vendible than the choicest Sermons. What saith he in the *Epistle Dedicatory*? speaking of Play-Books, *They bear so big a Price, and are printed in far better Paper, than most Octavo and Quarto Bibles, which hardly find so good vent as they; and then come in such abundance, as they exceed all number, and 'tis a years time to peruse them over, they are so multiplied; and then he putteth in the Margin Ben Johnson &c. Printed in better Paper than most Bibles.* Now if this be not a Tax upon the Kingdom, to print these Books in better Paper than the Bible it self, for my part I leave it to your Lordships. This Monster, this huge mishapen Monster, I say it is nothing but lies, and venom against all sorts of People. It is a strange thing what this Man taketh upon him. He is not like those Powder-Traytors, they would have blown up all at once; this throweth all down at once to Hell together, and delivereth them over to Satan. I beseech your Lordships give me leave; *Stage-Plays, &c.* (saith he) *none are gainers and honoured by them, but the Devil and Hell; and when they have taken their wills in lust here, their Souls go to Eternal Torment hereafter.* And this must be the end of this Monsters horrible Sentence. He saith, *So many as are in Play-houses, are so many unclean Spirits; and that Play-haunters are little better than incarnate Devils.* He doth not only condemn all Play-writers, but all Protectors of them, and all beholding of them; and Dancing at Plays, and Singing at Plays, they are all damned, and that no less than to Hell. I beseech your Lordships to give me leave but in a word to read unto you what he writes of Dancing, &c. *It is the Devils Profession, and he that entreth into a Dance, entreth into a devilish Profession; and so many paces in a Dance, so many paces to Hell.* This is that which he conceiveth of Dancing. *The Woman that singeth in the Dance, is the Prioresse of the Devil, and those that answer are Clarks, and the Beholders are the Parishioners, and the Musick are Bells, and the Fiddlers are the Minstrels of the Devil.* I said it was a Seditious Libel; this Point of Sedition is the only thing that troubles me, and it is that which I shall offer to your Lordships: For I do not know it, the good Opinion, Heart, Will and Affections of the Kings People and Subjects are the Kings greatest Treasure. Now if this be so, then for any Man cunningly to undermine these things, to take away the Hearts of the Subjects from the King, and to bring the King into an ill Opinion among his People, this is a most damned offence; and if I were in my proper place, and Mr. Prynne brought before me, I should go another way to work. I protest unto your Lordships, it maketh my Heart to swell, and my Blood in my Veins to boil (so cold as I am) to see this or any thing attempted, which may endanger my Gracious Sovereign; it is to me the greatest comfort in this world to behold his Prosperity.

Much hath been spoken concerning these things, and something by my Lord Cottington before me; but good my Lords, give me leave to remember you one or two Passages, not yet spoken of. He writeth thus; *That Nero's acting and frequenting Plays, was the*

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He writeth in another place worse than this. *Fol. 465. Tribellius Pollio relates, That Martian, Heraclius, and Claudius, Three worthy Romans, conspired together to murder Gallienus the Emperor, (a Man much besotted, and taken up with Plays, to which he likewise drew the Magistrates and People by his lewd Examples) as Flavius and others conspired Nero his Murder for the self-same cause, &c. Now my Lords, that they should be called Three worthy Persons that do conspire an Emperor's death, (though a wicked Emperor) it is no Christian Expression.*

If Subjects have an ill Prince, marry, what is the remedy? they must pray to God to forgive him, and not say they are worthy Subjects that do kill him: If they were worthy Acts, Mr. Prynne, I can tell what you are, (Mr. Prynne standing, during the Censure, behind the Lord Chief-Justice Richardson, and Arch-Bishop Neale.) No Man will conspire to murder a King that can be a worthy Actor. For the very thought of it is *High-Treason*. He speaketh of these Three, that they were Three worthy Romans that did conspire to murder Nero. This is most horrible, and here can be no manner of Exposition, but in the worst sense; for his excuse, he hath made none at all, only it was not his intention.

Good Mr. Prynne, you are a Lawyer. Intention! I know where the word standeth equal, as that you may take the *Intention* this way, or that way, with the right-hand or left-hand, there in that Case you may speak the Intention; but where the words are plain and positive, as in your Books, here is no help of Intention in the world: your words are plain and clear, therefore you can never make any defence at all out of that. Not to hold your Lordships any longer: My Lords, it is a most wicked, infamous, scandalous, and seditious Libel. Mr. Prynne, I must now come to my Sentence, though I am very sorry, for I have known you long, yet now I must utterly forsake you; for I find that you have forsaken God, and his Religion, and your Allegiance, Obedience, and Honour, which you owe to both their *Excellent Majesties*, the Rule of Charity to all Noble Ladies, and Persons in the Kingdom, and forsaken all Goodness. Therefore, Mr. Prynne, I shall proceed to my Censure, wherein I agree with my Lord Cottington, as he began very well: First, for the burning of the Book in as disgraceful a manner as may be, whether in *Cheapside* or *Pauls Church-yard*; for though *Pauls Church-yard* be a Consecrated Place, yet Heretical Books have been burnt in that Place. And because Mr. Prynne is of *Lincolns-Inn*, and that his Profession may not sustain disgrace by his Punishment, I do think it fit, with my Lord Cottington, that he be put from the Bar, and degraded in the *University*; and I leave to my Lords the Lord Bishops to see that done: and for the *Pillory*, I hold it just and equal though there were no Statute for it. In the case of a high Crime, it may be done by the discretion of the Court, so I do agree to that too. I Fine him 5000 *l.* and I know he is as well able to pay 5000 *l.* as one half of 1000 *l.* and perpetual Imprisonment I do think fit for him, and to be restrained from writing, neither to have Pen, Ink, nor Paper; yet let him have some pretty Prayer-Book, to pray to God

God to forgive him his sins; but to write in good faith, I would never have him: For, Mr. *Prynn*, I do judge you by your Book to be an insolent Spirit, and one that did think by this Book to have got the name of a Reformer, to set up the *Puritan* or Separatist Faction. I would not have Mr. *Prynn* go without a Recognition of his Offence to the *King* and *Queens* Majesty. I agree to the Sentence on *Buckner* and *Sparkes*.

9 Caroli.

Secretary Cook.

By this vast Book of Mr. *Prynn*, it appeareth he hath read more than he hath studied, and studied more than he considered; whereas, if he had read but one sentence of *Solomon*, it had saved him from the danger he is now like to fall into. The *Preacher* saith, *Be not over-just, nor make thy self over-wise, for why wilt thou destroy thy self?* My Lords, It is a Sentence requireth much study and consideration. It is most certain, that Righteousness and Wisdom are such Vertues, as they help forward Justice; but when Wisdom is mixed with a Mans own humours, as for the most part it is with Flesh and Blood, there is danger of straining it too far, and that will tend to the destruction of himself and others. Examples are too pregnant of this, and he may take it from a good Author, even from Christ himself. When his Apostles, out of zeal to their Master, would have called for Fire from Heaven against the *Samaritans* that refus'd to entertain him, the Answer was, *You know not of what Spirit you are.* I would Mr. *Prynn* would have consider'd this.

Mr. Secretary
Cooke's Speech.

There is a good Spirit that is meek, tempered with modesty and humility, with mildness and with equity; and such a Spirit is always tender, not to destroy, root up, overthrow, but to bind, repair and preserve. But there is another fiery Spirit, which is always casting of fire, nothing but damnation and destruction; certainly such a Spirit ever tends to his own confusion. And if this be well observed, every man shall find it true, that such a Spirit ever cometh before destruction. I wish Mr. *Prynn* were not an ill Example of this. Certainly, my Lords, vice and corruption ought not only to be reprehended but to be punished severely, and that sharply too where it is; but Mr. *Prynn* should have considered, every Man is not a fit reprehender. He had no Invitation, nor Office nor Interest to imploy a Talent, which doth not belong unto him. If *Magistrates* and *Princes* should inveigh against all things, and tolerate nothing, we must live no longer among Men; and certainly if we will be thought to live with them that are wholly virtuous, we must go out of the World; we have a good Author for this. But, my Lords, a Toleration must be used, and that Mr. *Prynn* would have found if he had considered his own body: Shall a Man upon every light distemper and disorder in his body take Physick; Or shall ill humours be purged till he purge all out? Certainly he will purge Spirit, Life, and all away with it. And as it is in the Natural Body, so it is in the Politick, there must be a Toleration and Connivence; it cannot be governed without it, and we have a Warrant for it. Did not *Christ* himself forbid the cutting out of the Tares, lest they should pluck Corn, and destroy that too. I think if Mr. *Prynn* should have been asked the Question that *Naaman* did to the Prophet, he would not at all have bid *go away in peace*, he would have threatned

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threatned Hell and destruction. There is a Christian Wisdom, and there must be a Toleration in all States. And certainly the faults that have been tolerated in all times were greater than modest Plays, or modest Dancing. It is not my intention, neither do I think it is the intention of any of your Lordships, to Apologize for Stage-Plays, much less for the abuse of them; I wish, and so I think doth every good Man, that the abuse of them were restrained; but, my Lords, not by railing, cursing, damning, inveighing, &c. not only against the faults and Players themselves, but against all Spectators, and those that come to them, and that of all degrees, and with such bitterness and acrimony, that in all the Authors alledged, which are infinite, there is not to be found an Example. *My Lords*, I am very sorry he hath so carried himself, that a Man may justly fear he is the *Timon* that hath a quarrel against Mankind. But I love not too much to aggravate Offences, which of themselves are heavy enough.

He calleth his Book *Histrion-mastix*; but therein he sheweth himself like unto *Ajax Anthropomastix*, as the *Grecians* called him, the scourge of all Mankind, that is, the Whipper and the Whip. I cannot but concur with the Censure already begun by my Lord *Cottington*, given against Mr. *Prynn*, *Buckner* and *Sparkes*.

Afterwards the Earl of Dorset spake to this effect.

Earl of Dorset
his Speech.

Such swarms of Murmurers as this day disclose themselves, are they not fearful Symptoms of this sick and diseased time; ought we not rather with more Justice and Fear apprehend those heavy Judgments which this *minor Prophet*, *Prophet Prynn*, hath denounced against this Land, for tolerating indifferent things to fall upon us for suffering them, like those Mutineers against *Moses* and *Aaron*, as not fit to breath? *My Lords*, It is high time to make a Lustration to purge the Air. And when will Justice ever bring a more fit Oblation than this *Achan*? *Adam*, in the beginning, put Names on Creatures correspondent to their Natures: The Title he hath given this Book is *Histrion-mastix*, or rather, as Mr. Secretary *Cooke* observed, *Anthropomastix*; but that comes not home, it deserves a far higher Title, *Damnation*, in plain *English*, of *Prince*, *Prelacy*, *Peers* and *People*. Never did *Pope* in *Cathedra*, assisted with the Spirit of Infallibility, more positively and more peremptorily condemn Hereticks and Heresie, than this doth Mankind. Lest any partial Auditor may think me transported with Passion, to judge of the base Liveries he bestoweth upon Court and Courtiers, I shall do that, which a Judge ought to do, *viz.* assist the Prisoner at the Bar. Give me leave to remember what Mr. *Attorney* let fall the other day. I will take hold of it for the Gentlemans advantage, That this Gentleman had no Mission; if he had had a Mission, it would have qualified the Offence. Our Blessed Saviour, when he conversed in this World, chose Apostles, whom he sent after into the World; *Ite, predicate*, &c. to shew the way of Salvation to Mankind. Faith, Hope, and Charity, were the steps of this *Jacobs Ladder* to ascend Heaven by. The Devil, who hates every Man upon Earth, play'd the Divine, cited Books, wrought Miracles,

cles, and he will have his Disciples too, as he had his Confessors and Martyrs. My Lords, This Contempt, disloyalty, and despair, are the Ropes which this Emissary lets down to his great Masters Kingdom for a general Service. My Lords, As the Tenor of their Commission was different, so are the ways: These Holy Men advanced their Cause in former times by meekness, humility, patience to bear with the weakness and infirmities of their Brethren; they taught obedience to Magistracy, even for Conscience sake; they divided not their Estates into factions; they detracted from none, they sought the Salvation of Mens Souls, and guided their Bodies and Affections answerably; they gave to *Cesar* the things that were *Cesars*; if *Princes* were bad, they prayed for them; if good, they praised God for them; however, they bore with them: This was the Doctrine of the Primitive Church, and this they did. I appeal to my Lords that have read this Book, if Mr. *Pryn* has not with breach of Faith discharged his great Masters end. My Lords, When God had made all his Works, he looked upon them and saw that they were good. This Gentleman, the Devil having put Spectacles on his Nose, says, that all is bad: no Recreation, Vocation, no Condition good; neither Sex, Magistrate, Ordinance, Custom Divine and Humane, things animate, inanimate, all, my Lords, wrapt up in *Massa Damnata*, all in the Ditch of Destruction. Here, my Lords, we may observe the great Prudence of this *Prince* of Darkness, a Soul so fraught of Malice, so void of Humanity, that it gorgeth out all the filth, impiety and iniquity that the discontent of this Age doth contract against the Church and State: but it may be some follower of his will say, It was the Pride and wickedness of the Times that prompted him to this Work, and set his Zeal, through tenderness of Conscience, to write this Book. My Lords, you may know an unclean Bird by his Feathers; let him be unplum'd, unmasked, pull off the deceitful Vizard, and see how he appeareth; this brittle-Conscience Brother, that perhaps starts at the sight of the Corner-Cap, sweats at the Surplice, swoons at the Sign of the Cross, and will rather dye than put on Woman's Apparel to save his life; yet he is so zealous for the Advancement of his *Babel*, that he invents Legions, Coins new Statutes, corrupts, misapplies Texts with false Interpretations, dishonours all Men, defames all Women, equivocates, lies; and yet this Man is a Holy Man, a Pillar of the Church: do you (Mr. *Pryn*) find fault with the Court and Courtiers Habits, Silk and Satten Divines? I may say of you, you are all Purple within, all Pride, Malice, and all Disloyalty; you are like a Tumbler, which is commonly Squint-ey'd, you look one way, and run another way: though you seemed by the Title of your Book to scourge Stage-Plays, yet it was to make People believe, that there was an Apostacy in the Magistrates; but, my Lords, admit all this to be venial and pardonable, this *Pigmy* groweth a *Gyant*, and invades the Gods themselves, where we enjoy this felicity under a Gracious *Prince* with so much advantage, as to have the light of the Gospel, whilst others are kept in darkness, the happiness of the Recreations to the health of the Body, the Blessed Government we now have; when did ever Church so flourish, and State better prosper? and since the Plagues hap'ned none have been

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been sent among us such as this Caterpillar is; what Vein hath opened his anger? or who hath let out his fury? When did ever Man see such a *Quietus est* as in these days? yet in this Golden Age, is there not a *Shimei* amongst us, that curseth the Anointed of the Lord, so puffed with pride, nor can the Beams of the Sun thaw his frozen Heart, and this Man appeareth yet. And now (my Lords) pardon me, as he hath wounded His Majesty in His Head, Power, and Government, and Her Majesty, His Majesties *Dear Consort*, Our *Royal Queen*, and my Gracious Mistress; I can spare him no longer, I am at his Heart. *Oh quantum!* &c. If any cast infamous Aspersions and Censures on our Queen and Her Innocency, silence would prove impiety rather than ingratitude in me, that do daily contemplate Her Vertues; I will praise Her for that which is her own, she drinks at the Spring-Head, whilst others take up at the Stream. I shall not alter the great Truth that hath been said, with a Heart as full of Devotion, as a Tongue of Eloquence, the other day, as it came to his part (meaning Sir *John Finch*.) My Lords, Her own Example to all Vertues, the Candor of Her Life, is a more powerful Motive than all Precepts, than the severest Laws, no Hand of Fortune nor of Power can hurt Her; her Heart is full of Honour, Her Soul of Chastity; Majesty, Mildness and Meekness are so married together, and so impaled in Her, that where the one begetteth Admiration, the other Love; Her Soul of that excellent temper, so harmoniously composed, Her Zeal in the ways of God unparallel'd; Her Affections to Her Lord so great, if she offend him, it is no Sun-set in Her anger; in all Her Actions and Affections so Elective and Judicious, and a Woman so constant for the redemption of all Her Sex from all imputation, which Men (I know not how justly) sometimes lay on them; a Princess, for the sweetness of Her Disposition, and for Compassion, always relieving some oppressed Soul, or rewarding some deserving Subject: were all such Saints as She, I think the *Roman Church* were not to be condemned; on my Conscience She troubleth the Ghostly Father with nothing, but that She hath nothing to trouble him withal. And so when I have said all in Her Praise, I can never say enough of Her Excellency; in the relation whereof an Orator cannot flatter, nor *Poet* lye; yet is there not *Doeg* among us, notwithstanding all the Tergiversations his Counsel hath used at the Bar? I can better prove, that he meant the *King* and *Queen* by that infamous *Nero*, &c. than he proves Players go to Hell; but Mr. *Prynn*, your Iniquity is full, it runs over, and Judgment is come; it is not Mr. *Attorney* that calls for Judgment against you, but it is all Mankind, they are the Parties grieved, and they call for Judgment.

(1.) Mr. *Prynn*, I do declare you to be a Schisme-maker in the Church, a Sedition-fower in the Common-wealth, a Wolfe in Sheeps-cloathing, in a word, *Omnium malorum nequissimus*. I shall Fine him *Ten Thousand Pounds*, which is more than he is worth, yet less than he deserveth; I will not set him at liberty no more than a plagued Man or a mad Dog, who though he cannot bite, he will foam; he is so far from being a Sociable

ciable Soul, that he is not a Rational Soul; he is fit to live in Dens with such Beasts of Prey as *Wolves* and *Tigers* like himself: Therefore I do condemn him to perpetual Imprisonment, as those Monsters that are no longer fit to live among Men, nor to see light. Now for Corporal Punishment, (my Lords) whether I should burn him in the Forehead, or slit him in the Nose; for I find, that it is confessed of all, that Doctor *Leighton's* Offence was less than Mr. *Prynn's*, then why should Mr. *Prynn* have a less Punishment? He that was guilty of Murder was marked in a place where he might be seen, as *Cain* was. I should be loth he should escape with his Ears, for he may get a *Periwig*, which he now so much inveighs against, and so hide them, or force his Conscience to make use of his unlovely Love-Locks on both sides: Therefore I would have him branded in the Forehead, slit in the Nose, and his Ears cropt too. My Lords, I now come to this *Ordure*, I can give no better term to it, to burn it, as it is common in other Countries, or otherwise we shall bury Mr. *Prynn*, and suffer his Ghost to walk: I shall therefore concur to the burning of the Book; but let there be a Proclamation made, that whosoever shall keep any of the Books in his hands, and not bring them to some publick Magistrate to be burnt in the Fire, let them fall under the Sentence of this Court; for if they fell into wise Mens Hands, or good Mens Hands, there were no fear; but if among the common sort, and into weak Mens Hands, then tenderness of Conscience will work something. Let this Sentence be Recorded, and let it be sent to the Library of *Sion* (meaning a Colledge in *London*) whether a Woman, by her Will, will allow Mr. *Prynn's* Works to be sent.

For Mr. *Buckner*, I believe that he had no intention at all this Work should come abroad, he is said to be a conformable Man to the Church of *England*; I shall hardle Censure him, he deserveth admonition.

For *Sparkes*, I concur in all things: The *Feodary* had his Office taken away from him by this Court; I see therefore no reason but that he may be barred from printing and selling of Books, and kept wholly to binding of Books.

TO welcome His Majesty home, after His Progress this Year into *Scotland*, the Four *Inns of Court* agreed to Present to the King and Queen a most glorious *Masque*; and accordingly on the 18th day of *February* this Year, on *Shrove-Tuesday* at night, in a gallant way Four Gentlemen, out of each *Inns of Court*, did ride on Horse-back, richly habited to *Whitehall*, accompanied also with a Train of *Christian Captives* many years enslaved in Chains under the *Emperor of Morocco*, and now sent by him as a Present to the King, for His assistance in destroying a Port of *Pirates* that annoyed that *Emperor*, and which also proved to the future security of Traders in the *Mediterranean Sea*.

The Inns of Court Present a Masque to the King and Queen at *Whitehall*.

And the City, willing to do something answerable, feasted their Majesties a fortnight after, at the Lord *Majors House*, (Alderman *Freeman*

An. 1633

Also Present-
ed their Ma-
jesties in the
City.

Freeman being then *Major*.) And the *Inns of Court* Revellers richly habited, rid in manner as is before-mentioned through the City, adorned the Kings Feasts, and at *Merchant-Taylors-Hall* the City partaked of that Radiant Show and Masque.

The Names of the Masquers at Court.

The King's Majesty.

Duke of <i>Lenox</i> .	Lord <i>Feilding</i> .
Earl of <i>Devonshire</i> .	Lord <i>Digby</i> .
Earl of <i>Holland</i> .	Lord <i>Dungarvin</i> .
Earl of <i>Newport</i> .	Lord <i>Dunluce</i> .
Earl of <i>Elgin</i> .	Lord <i>Wharton</i> .
Viscount <i>Grandeson</i> .	Lord <i>Paget</i> .
Lord <i>Rich</i> .	Lord <i>Saltine</i> .

The Names of the Young Lords and Noblemens Sons.

Lord <i>Walden</i> .	Mr. <i>Tho. Howard</i> .
Lord <i>Cranborne</i> .	Mr. <i>Tho. Egerton</i> .
Lord <i>Brackley</i> .	Mr. <i>Charles Cavendish</i> .
Lord <i>Shandos</i> .	Mr. <i>Robert Howard</i> .
Mr. <i>William Herbert</i> .	Mr. <i>Henry Spencer</i> .

* *L'eftrange*
Page 129.

As to the Masque, saith an Historian*, who writes the Reign of *King Charles*, that for curiosity of Fancy, for excellency of Performance, for lustre and dazling Splendor, this Age never before nor since within this Isle afforded the like.

* *Sanderfon*.

It is said by another Historian*, who also writ the Life of *King Charles*, That this gallant Masque was performed by the Four *Inns of Courts* in such Regret against *William Prynne*, Barrester of *Lincolns-Inn*, for his late Book Entituled *Histrionomastix*, being an In-
vective against Stage-Players.

Titles of Proclamations for the Year 1633.

Westminster
the 16th of
April.

A Proclamation against Frauds and Deceits used in Drapery, and for discovery and preventing of the same.

Whitehall the
5th day of
May.

A Proclamation for the Prices of Victuals within the Verge of His Majesties Household.

Whitehall the
5th day of
May.

A Proclamation for the well-ordering of His Majesties Court and Train, as well in his present Journey intended towards his Kingdom of Scotland, and return from thence, as in all other His Majesties Journeys and Progresses hereafter.

A Proclamation for the use of the Bow and the Pike together in Military Discipline.

9 Caroli.

Oatlands Aug. the 12th.

A Proclamation for preventing of the Abuses growing by the unordered Retailing of Tobacco.

Whitehall the 13th day of October.

A Proclamation concerning Tin.

Whitehall the 22d day of January.

A Proclamation for Prising of Wines.

Whitehall the 25th day of January.

A Proclamation concerning Soap and Soap-makers.

Whitehall the 26th day of January.

A Proclamation for the Prices of Poultry, Rabbits, Butter, Candles, Char-coal, and all manner of Fuel of Wood.

Whitehall the 12th day of February.

A Proclamation for the speedy sending away of the Irish Beggars out of this Kingdom into their own Country, and for suppressing of English Rogues and Vagabonds, according to Our Laws.

Whitehall the 12th day of February.

A Proclamation concerning the abusive venting of Tobacco.

Newmarket March 13.

Historical Collections

A Proclamation concerning
For the Year 1634
The Retailing of Tobacco

[illegible]

A Declaration for the Rights of British Subjects, Can-
dies Chart-coal, and other Minerals &c. &c.

[Faint, illegible handwriting]

A General and comprehensive view of the
 May 17, 1773, the seal of the State of New York.

June 17. Mr. Brown's report on the progress of his studies, then

It looks as if the window, looking out at a window, is looking in at a window.

Chamber where all this appeared; I asked to see him.

Accepted and published according to my hand, in the University of Cambridge, the 10th day of June, 1702.

General died at Brestford, and his body was buried in the churchyard.

And on the morning August 17, his servant brought him to his room. He found it so cozy before I was out of my bed. I have lost all interest in him, and the Church is great. She had of his condition. (p. 10)

Angus is one Robert's son of St. Andrew's castle in the at Glasgow.

Vol. II.

This image shows a blank, aged, cream-colored page, likely an endpaper or flyleaf of a book. The paper has a slightly textured appearance with some faint horizontal lines and minor discoloration or foxing, characteristic of old paper. There is no text or other markings on the page.

Historical Collections

For the Year 1634.

We continue the Course designed, to Commence every Year with the Arch-Bishop of Canterburies Diary.

P *Alm-Sunday*, faith the Arch-Bishop, I Preached to the King at *Whitehall*.

May 13. I received the Seals of my being chosen Chancellor of the *University of Dublin in Ireland*; to which Office I was chosen, *September 14. 1633.* There were now, and somewhat before, great Factions in Court, and I doubt many private ends followed, to the prejudice of publick Service: good Lord preserve me.

June 11. Wednesday Mr. *Prynn* sent me a Letter about his Censure in the *Star-Chamber* for his *Histrio-mastix*, and what I said in that Censure, in which he hath many ways mistaken me, and spoken untruth of me.

June 16. I shewed this Letter to the King, and by His command * sent it to Mr. Attorney *Noy*.

June 17. Mr. Attorney sent for Mr. *Prynn* to his Chamber, shewed him the Letter, asked him whether it were his Hand? Mr. *Prynn* said he could not tell unless he might read it; the Letter being given into his Hand, (and Mr. Attorney going to his Close-stool, needing a Paper for that purpose) he tore it in small pieces, and threw it out at a Window, fearing, it seems, an *Ore tenus*.

For this, *June 18.* Mr. Attorney brought him into the *Star-Chamber* where all this appeared; † I there forgave him.

July 26. I received word from *Oxford*, that the *Statutes* were accepted and published, according to my Letters, in the *Convocation-house* that week.

August 9. Saturday, Mr. *William Noy*, His Majesties Attorney-General died at *Brentford*, *circiter horam noctis decimam*.

And on *Sunday* morning *August 10.* his Servant brought me word of it to *Croydon* before I was out of my bed; I have lost a dear friend of him, and the Church the greatest She had of his condition, since she needed any such.

August 11. one *Robert Seale* of *St. Albans* came to me at *Croydon*, and told me somewhat wildly about a Vision he had at *Shrovetide* last, about not Preaching the Word sincerely to the People; and a Hand appeared unto him, and Death, and a Voice bid him go tell

March 30.
Arch bishop of
Canterbury's
Diary.

* But it was with somewhat a sharp Letter, the Copy whereof was found among his Papers.

† Because nothing was there proved, for Mr. Attorney knew not how to proceed or make good his accusation.

An. 1634.

it the Metropolitan of Lambeth, and made him swear he would do so, and I believe the poor Man was over-grown with fancy: So I troubled my self no further with him or it.

Aug. 30. Saturday, at Oatlands, the Queen sent for me, and gave me thanks for a business, with which She trusted me; Her Promise then that She would be my friend, and that I should have immediate address to Her when I had occasion.

September 30. I had almost fallen into a Fever, with a Cold I took, and it held me about Three Weeks.

December the 1st. Monday, my ancient friend E. R. came to me, and performed great Kindness, which I may not forget.

January 8. I married the Lord Charles Herberts, and the Lady Mary, Daughter to the Duke of Buckingham, in the Closet at Whitehall.

February 5. Thursday, I was put into the great Committee of Trade, and the Kings Revenue, &c.

Sunday March 1. The great Business which the King commanded me to think on, and gave me account of, and L. T.

Saturday March 14. I was named one of the Commissioners for the Exchequer, upon the death of Richard Lord Weston, Lord High Treasurer of England. That evening K. B. sent to speak with me at Whitehall; a great deal of free and clear expression, if it will continue.

Monday March 16. I was called again the next day into the Foreign Committee by the King.

March 22. Palm-Sunday, I preached to the King at Whitehall.

The King, in the beginning of this Year, May the 5th, had timely in his thoughts, how to raise Monies to set out a Fleet for the Guard of the Narrow-Seas, (which afterwards proved to be in the way of Ship-Money) the Narrow-Seas being at this time infested by Pirates of all his Neighbour-Nations, and from the Mediterranean by Turks and Algiers-men, was pleased to declare His Pleasure and Express Commandment, That no Mariner or Sea-faring-men, Shipwright, or Ship-Carpenter whatsoever, being His Majesties Subjects, should without the Kings License, or the License of the Admiral of England, enter, or attempt, or go about to enter into the Service of any Foreign Prince or State, or be employed out of this Realm in any Sea-Service whatsoever, unless it were in the Kings own Service, or of some of His Subjects. And if any at this time be in the Service of any Foreign Prince, that they forthwith return under a great Penalty.

And on the same Day His Majesty thought fit to declare His further Pleasure, concerning the Flags to be employed for His Royal Navy, as well as for the Ships of His Subjects of South and North-Britain; and conceiving it meet for the Honour of the Kings own Ships in His Navy-Royal, and of such other Ships as are, or shall be employed in the Kings immediate Service, that the same be by their Flags distinguished from the Ships of any other of His Subjects; doth therefore prohibit and forbid, That none of the Subjects of any of His Nations and Kingdoms, shall from henceforth presume to carry the Union-Flag in the Main-Top, or other part of any of His Ships, that is St. George's Cross, and St.

Andrew's

Andrew's Cross joynd together, but that the same Union-Flag be still reserved as an Ornament proper to the King's own Ships, and Ships in his immediate Service and Pay, and none others; and his Majesties further Will and Pleasure is, that all other Ships of his Subjects of England, or South-Britain bearing Flags, shall from henceforth carry the Red Cross, commonly called St. George his Cross; and also that all the other Ships of the King's Subjects of Scotland and North-Britain, shall from henceforth carry the White Cross, commonly called St. Andrew's Cross.

10 Caroli.

And it concern'd his Majesty to think of some other ways than hitherto he had done to raise monies for his Occasions, for that the Monies which were to come to the *Exchequer* upon the Composition with Recusants, fell far short of expectation.

For the King instead of receiving two full parts of three out of Recusants estates, had little above one part in ten or twelve, especially in the *North* where their Compositions were highest. *Roger Widdrington* of *Cartington* in the County of *Northumberland* Esquire paid 60 *l. per Annum* into the *Exchequer*, his Estate being better worth than 500 *l. per Annum*; *William Anderton*, of *Ander-ton* in the County of *Lancaster* Esquire paid 20 *l. per Annum*, his Estate being estimated worth 500 *l. per Annum*. *Francis Harecourt* of *Ranton* in *Staffordshire*, paid 25 *l. per Annum*, his Estate being worth above 200 *l. per Annum*. *Sir Henry Merry* of *Darbyshire*, *Kt.* paid 66 *l. 13 s. 4 d. per Annum*, his Estate being worth 600 *l. per Annum* and upwards. *Sir John Thimbleby* of *Lincolnshire*, *Knight*, paid 160 *l. per Annum*, his Estate being estimated at 1500 *l. per Annum*. *Sir Ralph Ellecure* of *Yorkshire*, *Knight*, paid 50 *l. per Annum*, his Estate being worth 600 *l. per Annum*. And much to the like proportion did others compound in those Northern Counties; but afterwards by the Advice of *Mr. Noy*, a more substantial way was thought upon, to raise a notable Revenue for the King, by *Ship-money*, of which more fully in its proper time and place.

Recusants
Compositions
fall short of
expectation.

Mr. Prynne of *Lincolns-Inn* was brought to the Bar of the Court of *Star-Chamber* on the 11th of June, and *Mr. Attorney Noy* thus opened the matter against him.

My Lords,

Here hath been an Information against *Mr. Prynne* in this Court, for a Seditious Railing Libel, or rather a Volume of Libels.

He had the sentence of the Court for the same. I will say thus much, it was more favour shewed him than he did deserve; he was mercifully dealt withal. He hath been in Prison, he hath been Degraded; he hath had his Ears cut off, and undergone all shame. It seems he hath been admitted to Pen, Ink and Paper in the Tower, and he hath made use of it. My Lords, he did write a Letter or rather a Scandalous Libel, to some of your Lordships, and falleth particularly upon some of your Lordships here; for he

Mr. Noy.
Mr. Prynne
once more
brought into
the *Star-*
Chamber.

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he doth examine whatsoever was said at the hearing of his Cause: and he saith, what was done by one, was done by all the rest.

My Lords, This *Libel* came to the King's Attorney-General, and he sent for Mr. *Prynn*, and wished him to give over this practice of Rayling now at last. He was asked whether it was his writing or no? (no wonder he would tell a lye, seeing he had so often lied, and forsworn himself in Court before) He answered, he could not tell, unless he might read it all: so it was delivered unto him to read, consisting of five pages. He read as much of it as was his pleasure, yesterday in my Chamber, in my presence; and my back being from him, and his from mine, he taketh the Letter (the *Libel*) and teareth it in pieces, like a Rat, or a Vermine, and throweth it out of the Window: yet I caused the pieces to be gathered up, which your Lordships may see, and the *Libel* in a great part may be read. Then he was asked, if he did tear it? He said, I will answer you nothing. *My Lords*, I shall desire he may be asked here, whether he did tear it, or no?

Lord Keeper.

Mr. Prynn, *Mr. Attorney* desires to know, whether you did tear this, or no? *Mr. Prynn* answered, If it may please your Lordships, I have been censured in this Court, and submitted my self to every particular in the execution of it; and I have so carried my self in publick, without giving any offence at all in the least kind; and if *Mr. Attorney* exhibit any thing in Court against me, I desire that I may give a legal Answer unto it. I hope this Court will be favourable toward me. I did nothing in publick to give any offence, and what I wrote in private, was not my intention to come in publick. I am a man subject to passion, as all men are; therefore I hope your Lordships will not impute it as a Crime.

Lord Keeper.

Here is humility for the time to come, but for the time past it is very ill.

Mr. Noy.

I shall desire your Lordships that he may be in Goal, and kept close Prisoner; and neither to have Pen, nor Ink, nor Paper, nor go to Church; and I shall afterward proceed against him for this here. I think in my Conscience (said Mr. *Noy*) he hath neither Grace, nor Modesty.

The Arch-Bishop of Canterbury.

My Lords, He hath undergon a heavy punishment, I am heartily sorry for him; and *Mr. Prynn*, I pray God forgive you for what you have done amiss. I confess I do not know what it is to be close Prisoner, and to want Books, Pen, Ink and Company. Certainly a man alone in that Case, who knoweth how he may be afflicted? And as *Mr. Attorney* saith, he is past all Grace, and Modesty; surely then he had need to be more free, and have Books and go to Church, that he may become better. I shall therefore be an humble suitor to your Lordships, that he may have the privilege to go to Church (saith Mr. *Prynn*, with a low voice, I humbly thank your Grace.) But my Lord *Keeper* asked the rest of the Lords, what they thought of it? but no resolution was given at all, but they would take it into their Consideration. The Lord *Richardson* then said, let him have the Book of Martyrs, for the Puritans do account him a *Martyr*.

Mr. Prynn desired the Arch-Bishop of *Canterbury*, that he might have the Books, which his Officer seized upon in his Study; and the Arch-Bishop did seriously protest, that they were seized without his

privity,

'privity, and that he had direction to seize no Books, but those questioned in Court; but would give a Warrant under his hand to re-deliver them.

10 Caroli.

In pursuance of the settlement of Church-Affairs, the Bishop of London did about this time design to impose the *English Liturgy* and Discipline, upon the English Companies and Regiments in Foreign parts, and upon the Churches of Foreigners living in *England*, and represented to the Lords of the Council his advice therein, in propositions to this effect.

1. Whether it be not fit (I had almost said necessary) that the several Colonels in the *Low-Countries* should entertain no Minister, as Preacher to their Regiments, but such as shall conform in all things to the Church of *England* established, and be commended unto them from your Lordships, by the advice of the Lord Archbishop of *Canterbury* or *York*, for the time being.

Propositions presented to the Council by the Bishop of London concerning English Preachers employed in Foreign Parts.

2. That the *Company of Merchants* residing there, or in any other foreign parts, shall admit no Minister, as Preacher unto them, but such as are Qualified, and Commended as aforesaid.

3. That if any Minister, having by feigned carriage, got to be so recommended, either to any of the several Colonels, or to the Deputy-Governor and Body of the Merchants there, that be after found unconformable, and will not mend upon warning given by the Colonels, or Deputy-Governor of the Merchants, he shall within three months after such warning given, and refused, be dismissed from his service, that a more orderly and peaceable man may be sent unto them.

4. That every Minister or Preacher with any Regiment of Souldiers, that are his Majesties born Subjects, or with the Company of Merchants there, or elsewhere, shall read Divine Service, Christen Children, Administer the Sacrament of the Lord's Supper, Marry, Instruct the Younger or more ignorant sort in the Catechism, Visit the Sick, Bury the Dead, and do all other duties according as they are prescribed in the Book of *Common-Prayer*, maintained in the Church of *England*, and not otherwise: and that he which will not conform himself so to do, shall not continue Preacher, either to any Regiment of *English*, or *Scotish*, or to the Merchants.

5. That if any Minister, or Preacher, being the King's Subject, shall with any bitter Words, or Writings in Print, or otherwise, defame the Government of the *Church of England* established, His Majesties Ambassador or Agent in those parts, for the time being, is to be informed of it; and upon notice given from him to the State, he, or they so offending shall be commanded over by *Privy-Seal*, or otherwise, to answer their Offence, or Offences here.

6. That no Colonel of any several Regiment, or Deputy-Governor of the Merchants shall give way, that their Minister or Preacher shall bring any other Minister to Preach for him in time of his Sickness, Absence, or other necessary employment, but such, as for whose conformity to the Church and Government he will be answerable.

7. That if any Minister, being a Subject of the King's, in any parts beyond the Seas, shall in any Auditory, or elsewhere publickly

An. 1634.

lickly Speak, Write, Print or Divulge any thing derogatory to the Doctrine or Discipline established in the *Church of England*, or against the temporal State and Government, that the King's Agent do certifie his Offence, that so he may be recalled by *Privy-Seal*.

8. That no man shall be chosen or sent over by the Merchants here, either to *Delf*, or any other part of their Residence beyond the Seas (whensoever any place, or places shall become void) but such a man as is conformable to the *Church of England*; and such as will be careful to see, that they who are under his Government shall observe all such Church-duties, as are expressed and required in any of the former propofals.

9. That whensoever the *Merchant-Adventurers* shall become Suitors to renew or confirm their *Patent* (as in most Kings times is usual to do) that then there be a Clause inserted into their *Patent*, to bind them to the observance of all, or so much of those Instructions, as shall be thought fit by His Majesty, and the Lords, &c.

June 17. 1634

The Arch-Bishop of *Canterbury* thought fit to pursue those Propofals, he had made to the Council, and writ a Letter to the Merchants at *Delf*, to the purpose following.

After our hearty commendations, &c. We are commanded by His Majesty to signifie unto you that this Bearer Mr. Beaumont chosen by joint-consent of your Company to be your Preacher at *Delf*, or where else you shall at any time reside, is a man learned, sober and conformable to the Doctrine and Discipline established in the *Church of England*, and that you are to receive him with all decent and courteous usage fitting his Person and Calling, and to allow him the usual ancient stipend which Mr. Forbes lately, or any other before him hath received. And further we are to let you know, that it is His Majesties express Command, that both you, the Deputy, and all and every other Merchant, that is, or shall be residing in those parts beyond the Seas, do conform themselves to the Doctrine and Discipline settled in the *Church of England*: And that they frequent the Common-Prayers with all religious duty and reverence at all times required, as well as they do Sermons: And that out of your Company, you do yearly about Easter, as the Canons prescribe, name two Church-Wardens and two Sides-men, which may look to the Orders of the Church, and give an account according to their Office. And Mr. Beaumont himself is hereby to take notice that His Majesties express Pleasure and Command to him is, that he do punctually keep and observe all the Orders of the *Church of England*, as they are prescribed in the Canons and the Rubricks of the Liturgy. And that if any of your Company shall shew themselves refractory to this Ordinance of His Majesty (which we hope will not be,) he is to certifie the name of any such Offender, and his Offence to the Lord Bishop of London for the time being, who is to take Order and give Remedy accordingly. And these Letters you are to register and keep by you, that they which come after may understand what care His Majesty hath taken, for the well-ordering of your Company in Church-affairs.

affairs. And you are likewise to deliver a Copy of these Letters to Mr. Beaumont, and to every successor of his respectively, that he and they may know, what His Majesty expects from them, and be the more inexcusable if they disobey. Thus not doubting, but that you will shew your selves very respectful of these His Majesties Commands, we leave you to the Grace of God, and rest,

June 17.

Your very Loving Friend,
W. Canterbury.

At the Star-Chamber June 20. 1634.

Present,

The Arch-Bishop of Canterbury.	Earl of Bridgewater.
Lord Keeper.	Lord Cottington.
The Arch-Bishop of York.	Lord Newburgh.
Lord Privy-Seal.	Mr. Treasurer.
Lord High-Chamberlain.	Mr. Comptroler.
Lord Chamberlain.	Mr. Secretary Cook.
Mr. Secretary Windebanck.	

Order in the Court of Star-Chamber concerning Farthing-Tokens, and the imposing them on the people for Wages.

THIS day the Board did take into Consideration, the Complaints made from several parts of the Kingdom, concerning the stop and refusal of *Farthing-Tokens*, proceeding as well from the abuse in counterfeiting the same, as in causing the same to pass, as well in payments as for Commodities, and for Wages to Workmen and Labourers, in greater Quantities than was intended.

And whereas upon a *Decree* lately made in the High-Court of *Star-Chamber*, the 25th day of *April* last, wherein Sir *Francis Crane* Knight, was Plaintiff against *William Hawks* and others, for making and venting counterfeit *Farthing-Tokens*, their Lordships did call to mind, that there was consideration likewise had, and provision made by the said *Decree* against the abuse in forcing the same upon Men for Wages and in other payments, and directing the right use to be made of them for the good and benefit of the Subject, according to His Majesties Royal Intention, and the Proclamations published in that behalf:

It was therefore by the Board thought fit and Ordered, that so much of the said *Decree* as concerned the regulating of the business *de futuro*, should be set down in this Order, and together with the same, be forthwith Printed and Published, which part of the said *Decree* doth accordingly follow in these words.

The Court being informed, that by the abuse of some particular persons, whose only aim is to make a private gain and profit to themselves, His Majesties people are much abused in many parts of this Kingdom, and poor Labourers, whose necessities are such, as enforceth them to take their hire in any money, are compelled many times to take their whole weeks Wages in Farthings, from such as buy great quantities at low rates, and make a Commodity thereby: Which abuse, as it is already become a great burden and grievance to His Majesties people in many

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parts of the Realm, so it is to be feared it will hereafter turn to the great disadvantage of His Majesties Patentees, if it be not remedied by a timely Reformation. Their Lordships being willing to prevent and meet with such growing evils, and desirous to remove the inconveniencies of forcing His Majesties Subjects to take such great quantities of Farthings in Payments; which Farthing-Tokens rightly used, are of themselves very useful and necessary, and were made chiefly for the relief of the Poor, and to be vented and used only for exchange in small Sums, but not to be put upon any in great Payments, have thought fit and Ordered, and it is by this their Lordships Sentence declared, That it is utterly unlawful, and expressly contrary to the true meaning of His Majesties Letters Patents and Proclamation, that any such Farthing-Tokens should be enforced upon any poor Labourers or Workmen, or other persons in any Payments, either of greater or lesser Sums.

And they declare further, That they think it fit that no person should pay above Two-pence in Farthings to any other person at any time. And this Court doth also declare it to be unlawful, for any Man to buy or barter for any Farthings, at or for lesser rate than they are usually vented by His Majesties Patentees, to whom the sole making thereof is granted, and upon whom the re-change thereof lyeth at the same rate: And if any person shall be found herein to offend in either of these kinds, this Court is resolved severely to punish the Offenders. And the Court doth withal hold fit, and desire that His Majesty should be moved, to declare and command the same, by His Highness's Proclamation, to be published throughout this Kingdom, that so the true use of those Farthing-Tokens, intended for the good of the Poor, may be continued, and the abuses aforesaid may either be prevented, or punished.

Trin' Term' 1634.

Attorn' Regis
Noy vers' O-
verman & al'
Soap-boilers.

Using Fish-
Oyl in Soap-
making.

Not suffering
the Assay-Ma-
ster to try or
mark their
Soap.

Unlawful
Meetings to
set Price on
their Commo-
dities.

THE Defendants being Soap-boilers of the City of London, did, contrary to His Majesties Proclamation, use divers great quantities of Fish-Oyl in making their Soap, and some of them also used Spyke-Oyl in the making thereof, to qualifie the scent of the Fish-Oyl; His Majesty, by that Proclamation, having prohibited the use of any other Oyl, than Olive and Rape-Oyl to make Soap withal, so as it might be sweet, and more serviceable. And the Defendants, Griffin, Cope, and Revel, in further contempt of His Majesties said Proclamation, and in contempt and opposition to His Majesties Letters Patents, granted to the new Corporation of Soapers of Westminster, and by the instigation and encouragement of the Defendant, Whitwell refused to suffer the Assay-Master for Soap to try, or mark their Soap, although His Majesty, by his said Proclamation, commanded the doing thereof, and that none should be sold until it were marked and tryed; and albeit the Defendants were no Corporation, Body, or Fellowship by any lawful Authority, yet the Defendant Overman, Baker, and Troughton, with others, did at several times, and at several Taverns in London, assemble themselves together, to confer about the Sale of their Soap, and buying of Fish-Oyl of the Greenland-Company, and did there conclude and agree, not to sell their second best Soap under 54s. the

the Barrel, and did after sell it at greater Rates, and did buy 600 Tun of Fish-Oyl not long after to use in making their Soap; and for these Offences they were all committed to the Fleet, during His Majesties Pleasure: Griffin fined 1500*l.* Overman the elder, and Whitwell 1000*l.* a-piece: Baker, Troughton, Cope and Revell 1000 Marks a-piece: Hardwick, Overman Jun', Barefoot, Hayes, Hynde, Washer, Barber, Weeden and Moncke 500*l.* a-piece, and all of them disabled by themselves, or their Work-men, Servants, Agents, or any other, to use or exercise their Trade of Soap-boiling at any time hereafter.

10 Caroli.

Disabled to use their Tra

Mich. Term. 1634.

Here happened this Term a sudden Remove in the Court of Common-Pleas: Sir Robert Heath who was Lord Chief-Justice of the Common-Pleas was removed, and Sir Jo. Finch was sworn Lord Chief-Justice of that Court. Great were the Discourses what the occasion should be of that sudden Advancement. But Four days after the Writ for Ship-money coming forth, it was conceived, by common Discourse, that he was to be instrumental to advance that business.

And on the 16th of October the Lord Keeper Coventry made this Speech unto him, at the time of his Installment in the Court of Common Pleas.

The Lord Keeper's Speech to Sir John Finch, at the time he was to be made Chief-Justice of Common-Pleas, the 16th of October 1634.

Mr. Serjeant Finch,

THE King's Majesty calling to mind your many Services to Himself, and the Queen, and knowing well your great Learning, accompanied with much Dexterity in the accomplishing of Business of weight, hath appointed you to succeed in the Place vacant in this Court, and here to sit as Chief-Justice. In this you see a manifest Argument of singular Goodness of the King and Queen, so mindful of their Servants, imitating God above, that rewardeth not *secundum*, sed *supra Bona Opera*. Now as many heretofore, so you in your due time have cause to acknowledge with David, that your Cup doth overflow. As this is a great comfort to see your Endeavours not only favoured with Acceptance, but Crowned with Reward; so it will instruct you, (your Service having brought you Promotion) and put you in mind of your Service, that the Gifts of Princes, though they are *sine aliquo reddendo*, yet they are not to be reckoned so by them that have them; but as Fruits sown in Fruitful Ground to them that receive them: and of this nature is your Place, which your Master gives you to serve him in; and yet you must serve him so, as you may be fruitful to His People. I remember in *Rotulo Parliam*

Upon the Removal of Sir Robert Heath from being Lord Chief-Justice of the Common-Pleas, Sir John Finch, the Queen's Attorney, was chosen into that Place.

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menti 20 Ed. 1. in a great Cause between *Humphry de Bobun*, and
Gilbert de Clare; It was said of that King, he was as great a Law-
giver, as a Victorious Prince, and therefore stiled the *Justinian of*
England, *Rex omnibus Justitiæ Debitor*. The King, Our Master,
as much as any, makes the same acknowledgment in Practice:
never any King, I may say, never any Man of juster, or more up-
right Heart, that equal Justice should be ministred to His Sub-
jects; for he knows well, that *Rex & Subditus* are Correlatives,
even as Man and Wife; and the Emblem of King not wanting
betwixt them. As the Subject owes Obedience, so the King Pro-
tection and Justice. This Debt is *Debitum Justitiæ*, too great
and heavy a Burthen to be borne by a King, compounded only of
Mortal Flesh, were it not that His Council were as Religious and
Just, as he is Wise and Politick; and thereby the Load of the
King's Business is lightned, by laying a part of the great and insup-
portable Burthen upon the Judges: For His *Debitum Justitiæ*,
which is the Debt of a King primarily, by a Secondary Means be-
comes the Debt of Judges, and under as great Bonds as may be;
Greater there cannot be to bind the Consciences of Men. The
first Bond is *Debitum Patriæ*, due to all the King's People, whose
Causes and Placcs are the proper Subjects of this Tribunal, and
whose flourishing Estate depends much upon the Just Proceedings
of this Court. Were there no other Motive, yet this that prevails
among the Heathen, *Amor Patriæ*, were strong enough to make
Judges desirous of this Duty. The second is *Debitum Regi*; for
he trusts them with his Richest Treasure, that which is dearer
than the Apple of His Eye. His Justice is one Prime-part of His
Oath at His Coronation, *Facies fieri in omnibus Justitiam Æquam*
& *Rectam*: And what you are to give the King for this, you shall
need to go no farther than your Oath, the neglect of which puts
you to the Will of the King, for Body, Lands and Goods. The
third the greatest of all, *Debitum Deo*, as he is the Fountain of all
Justice, and a fearful avenger of them that do the contrary. And
three ways I shall mind you how this is a Debt to God. First,
Ratione Juramenti, by reason of your Oath, for the immediate
relation it hath to God; that it is *Religio Jurisjurandi*, and there-
fore, under this Oath, you are bound to God in a full discharge.
Secondly, *Ratione Loci*, for the Seat of Judges; God sits whereon
you sit; and you may assure your self, that he that sets you there,
will take strict account of you. Thirdly, *Ratione Judicii*: The
Judgment it self is Gods, if you be upright, as you ought. It is
said in the 82d Psalm, *God stands in the Congregation of Princes*,
is the Judge among Gods; and so when you sit here, you must
think God is in your Face to give Judgment as it is right, or
otherwise to punish; and therefore when you shall sit your self
on your Cushion, either here, or in any other place, you have
cause to say, as *Jacob* did when he had slept in *Bethel*, *How dread-
ful is this Place! This is the House of God*. This is the general.
I fear I have spent too much time; I will make amends in the Par-
ticulars: Somewhat for Order. *Communia Placita*, the Pleas of the
People; as they are numberless, so necessarily must their Pleas and
Causes be; therefore they are all Civil, whether for Lands,
Goods real, personal, or mixt: they are the proper Object of this
Court.

Court. First therefore, you must use diligence in attending and
 dispatching the multitude of business in this Court. Common
 Industry may discharge Common Employment; but this is Super-
 lative and Transcendent, and therefore your diligence must be
 extraordinary. Secondly, you must use great Patience in Matters
 brought before you: I must confess, that a multitude of Business
 and a Good-will to dispatch, will as soon try one's Patience as any
 thing; yet whatsoever Tryal you are put to, be not from your
 Tryal. Nothing better becomes a Judge than Patience. Third-
 ly, you must use great caution in discerning those things brought
 before you; for those that have ill Causes will omit no endeavour
 to beguile you: therefore you must keep Watch and Ward, and
 try every thing, that no Counterfeit come to be put upon you.
 Then, in the fourth place, it is necessary to use all expedition.
Nulli deferemus is coupled with *Nulli negabimus*, *Nullo vendemus*
Iustitiam: all three naught, and none can tell which is the worst.
 In the first place, I shall advise and wish you, in all your Judg-
 ments, to insist upon the ancient ways of your Common Law.
 New Opinions are many times in a Councillor retain'd, to defend
 a Side; but they stand not with the Gravity of a Judge. To in-
 vent or find out any thing is commendable in a Councillor, but
 let a Judge stand *super antiquas vias*; for *Lex Loci*, & *Consuetu-*
do Angliæ, is all in all. One Particular more, which (I think) con-
 duceth much to Justice, is, to give all encouragement to the good
 and expert Clerks of this Court. It hath ever been the great
 Commendation and Honour of this Court to be furnished with
 the best Clerks. These encourage others, inform, and reduce to
 the same purity of Pleading, which (as Mr. Littleton saith) is one
 of the most Honourable things in the Law. And if a Man ob-
 serve what a multitude of just Causes are overthrown by vitious
 Entries, and Pleadings, he will have just Cause to believe it. I
 know to whom I speak. Your great Understanding and Judg-
 ment, and that Integrity in you, need not that I should say half
 this: and yet, considering what Order is, and the Duty of my
 Place, and affection to your Person, I could do no less. I shall
 shut up all in Two *Memento's*. The one, That the Justices of
 this Court are stiled by the Name of *Iustitiarij* without Addi-
 tion, and the Process likewise *coram Iustitiariis* without Addi-
 tion. Addition, for the most part, diminishes. It is an Honour,
 and somewhat more, that it hath been attributed more to this
 Court than to any other. Think on it, and let it be an occasion
 for you to think what it is, and to follow it. The next *Memento*
 is, to remember the Catalogue of your Predecessors: for I may
 be bold to say, as many and Reverend Men have been upon the
 Cushion in this Court, as ever sat on any; especially the remem-
 brance of the best is the best Instruction and Lesson to your self.
 Out of my true and hearty affection to you, I wish you may often
 think of them; and so think of their Ways, that your Ways may
 exceed, and out-run the best.

Finch,

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Finch, *Lord Chief-Justice of the Common-Pleas, his Speech, in answer to the Lord Keeper, at the time of his Installment.*

May it please your Lordship,

Levis est Dolor, qui Consilium capere potest.

Great Joy brings forth no less, and breeds no less perturbation in their thoughts that enjoy it. How it must then be with me, at this present, I leave to your Lordship to judge. To myself, I must confess, I appear like one for a long time shut up in a dark Room, upon whom a great Light, on a sudden, hath broken in. I muse at the consideration of my own weak acknowledgment of the King's Goodness shining upon me at this time. *Ignotus moritur sibi*, is a sad finishing of a Man's own Course. I must crave your Lordship's Patience; and if I live, shew you how unwilling I am to live the one, or die the other. I have now spent (I would I could say not mis-spent) *Thirty-four Years* in relation and practice of the Common-Law; *Relation* I call it, for the first *Six Years* bestowed by me in the Books of Law, by some unhappy means I was diverted, and my Resolution fitted to another way for Forreign Employment, to which, after *Nine or Ten Years*, I was design'd: and at that time, the *Great Seal* being put into the Hands of that *High-Treasurer* of all Learning and Eloquence, the Lord of *St. Albans*, (pardon my good Lord, if my never-forgotten Favours desire to revive him, whose faults let them be buried with him in the Grave; I remember his Vertues) by him was I invited to the Practice of the Common-Law. His Fall, and other Misfortunes to your Lordship not unknown, drew me from my Study: But afterwards, resolutely turning my Hand to the Plough again, it pleased God to send your Lordship that Place, which now you hold, (which God continue) and my Prayer shall ever be from the bottom of my Heart, that I may never see it in another Hand: and when *Atalanta-like* I stooped at the Ball of Profit, neglecting the Goal of Honour, spending my time more in the Service of the Subject, than my own Good; He, in whose Hands the Hearts of Kings are, hath bowed the Heart of my Gracious Sovereign and Master to me; and I learn to think that is best which he doth, and so submit my self to His Pleasure. This hath bred in me several Meditations, some of Comfort and Consolation. Here sit by your Lordship Three Grave and Learned Judges well-versed in the ways of this Grave Court; and I am as confident of their particular Affection to me, as certain of my own to them; two of the same Society where I was bred, my Ancient Acquaintance; and from the third I ever had a respective Carriage. I shall think it no disparagement to see with their Eyes, to hear with their Ears, and to speak with their Tongues, till my own Observation, and what I shall hear by them, may make me more substantial. In the Gospel of *Christ His Coat* is said to be without Seam; and in the *Psalms*, that the *Queen's Vesture*

Vesture was of divers Colours: upon which one of the Fathers makes this Observation, *In Veste varietas, Scissura nulla*. Sometimes we may differ in opinion; but our Hearts shall be like our Robes. My chiefest Comfort is in the confidence of your Lordship's Noble Favour, whom I shall ever set as a Mirror before my Eyes. I count it happy, that I shall attend your Lordship in a Court whereby I may learn, and you see my Endeavours to follow your Precepts and Example, which hath ever been accompanied with all Vertues: The assurance of the King's Majesties Favour is Happiness, as fit for my Wonder, as for my Words. At His first Access to the Crown, He was pleased, upon some small occasion, to cast a Princely Eye upon me; after He made me of His Learned Council, and then commended me to the Service of my ever most Gracious and Excellent Mistress; and still doubled His Favours in continuing me in His own Service. Afterward He pricked me out to the Parliament to serve Him and the Commonwealth; and though my own disability made me seek to decline it, Himself gave me means to support it, (a thing before not known) and found out a way to add some more value to me, by ranking me above others before me in Place and Merit. These, and more Favours innumerable have comforted me; that nothing but my own demerits can lessen His Grace to me. I begin to think of what *Demosthenes* said to the People of *Athens*, when they chose their Officers.

To take up Thoughts and Cogitations fit for the Greatness and Dignity of this Place; and in that I cannot but remember those Judges which *Jethro* commended to *Moses*, (whom your Lordships remember) *Men Timentes Deum, & qui oderunt avaritiam*. His Majesties Love shall make me hate all base and sordid Thoughts, and stir up in me all Zeal to His Service. For uprightness between Man and Man, I shall need no other Argument but the Justness of His Royalty, who likes best of those Servants that best distribute His Justice to His People; for the rest, *Levavi oculos meos in montem, unde venit auxilium*; God's Grace give me assistance, as he did to the poor Fishermen. I shall account it your Lordships great Favour to make my humble Recognitions and Resolutions, with the best advantage of your Lordships Expression, known to the King's Majesty.

Carolus Rex, &c.

TO the Mayor, Commonalty, and Citizens of Our City of London, and to the Sheriffs of the same City, and good Men in the said City, and in the Liberties, and Members of the same, Greeting. Because We are given to understand, That certain Thieves, Pirates, and Robbers of the Sea, as well Turks, Enemies of the Christian Name, as others, being gathered together, wickedly taking by force, and spoiling the Ships, and Goods, and Merchandizes, not only of Our Subjects, but also of the Subjects of Our Friends in the Sea, which hath been accustomed anciently to be defended by the English Nation; and the same, at their pleasure, have carried away, delivering the Men in the same into miserable Captivity: And forasmuch as We see them daily preparing all manner of Shipping, farther to molest Our Merchants, and to grieve the Kingdom, unless remedy be not sooner applied, and their

10 Caroli.

20. Octob. 10.
Car.
The first
Writ for
Ship-mony.

Endea-

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Endeavours be not more manly met withal; also the dangers considered, which, on every side, in these times of War do hang over Our Heads, that it behoveth Us, and Our Subjects, to hasten the Defence of the Sea and Kingdom with all expedition or speed that We can; We willing by the help of God chiefly to provide for the defence of the Kingdom, safeguard of the Sea, security of Our Subjects, safe Conduct of Ships and Merchandizes to Our Kingdom of England coming, and from the same Kingdom to forreign Parts passing; forasmuch as We, and Our Progenitors, Kings of England, have been always heretofore Masters of the aforesaid Sea, and it would be very irksome unto Us, if that Princely Honour in Our times should be lost, or in any thing diminished. And although that Charge of defence, which concerneth all Men, ought to be supported by all, as by the Laws and Customs of the Kingdom of England hath been accustomed to be done: Notwithstanding We considering, that you Constituted in the Sea-Coasts, to whom by Sea as well great dangers are imminent, and who by the same do get more plentiful Gains for the defence of the Sea, and Conservation of Our Princely Honour in that behalf, according to the Duty of your Allegiance against such Attempts, are chiefly bound to set to your helping hand; We command firmly, enjoining you the aforesaid Mayor, Commonalty and Citizens, and Sheriffs of the said City, and the good Men in the same City, and in the Liberties, and Members of the same, in the Faith and Allegiance wherein ye are bound unto Us, and as ye do love Us, and Our Honour, and under the forfeiture of all which ye can forfeit to Us, That ye cause to be prepared and brought to the Port of Portsmouth, before the first Day of March now next ensuing, one Ship of War of the Burthen of Nine Hundred Tuns, with Three Hundred and Fifty Men at the least, as well expert Masters, as very able and skilful Mariners; One other Ship of War of the Burthen of Eight Hundred Tuns, with Two Hundred and Sixty Men at the least, as well skilful Masters, as very able and expert Mariners: Four other Ships of War, every of them of the Burthen of Five Hundred Tuns, and every of them with Two Hundred Men at the least, as well expert Masters, as very able and skilful Mariners: And one other Ship of War, of the Burthen of Three Hundred Tuns, with a Hundred and Fifty Men, as well expert Masters, as very able and skilful Mariners: And also every of the said Ships with Ordnance, as well greater as lesser, Gun-powder, and Spears and Weapons, and other necessary Arms sufficient for War, and with double Tackling, and with Victuals, until the said first of March, competent for so many Men; and from that time, for Twenty-six weeks, at your Charges, as well in Victuals as Mens Wages, and other things necessary for War, during that time, upon defence of the Sea in Our Service, in Command of the Admiral of the Sea, to whom We shall commit the Custody of the Sea, before the aforesaid first Day of March, and as he, on Our behalf, shall command them to continue; so that they may be there the same day, at the farthest, to go from thence with Our Ships, and the Ships of other faithful Subjects, for the safeguard of the Sea, and defence of you and yours, and repulse and vanquishing of whomsoever busying themselves to molest or trouble upon the Sea Our Merchants, and other Subjects, and Faithful People coming into Our Dominions for cause of Merchandize, or from thence returning to their own Countries. Also We have assigned you, the aforesaid Mayor and Aldermen of the City

City aforesaid, or any thirteen, or more of you, within thirty days after the receipt of this Writ; to Assess all men in the said City, and in the Liberties, and Members of the same, and the Landholders in the same, not having a Ship, or any part of the aforesaid Ships, nor serving in the same, to contribute to the expences, about the necessary provision of the premises; and to Assess and lay upon the aforesaid City, with the Liberties and Members thereof, viz. upon every of them according to their Estate and Substances, and the portion Assessed upon them; and to nominate and appoint Collectors in this behalf. Also we have Assigned you, the aforesaid Major, and also the Sheriffs of the City aforesaid, to levy the Portions so as aforesaid Assessed upon the aforesaid men and Landholders, and every of them in the aforesaid City, with the Liberties and Members of the same, by distress and other due means; and to commit to Prison all those, whom you shall find Rebellious and contrary in the premises, there to remain until We shall give further Order for their delivery. And moreover We Command you, that about the Premises ye diligently attend, and do, and execute those things with effect, upon peril that shall fall thereon: but We will not, that under colour of Our aforesaid Command, more should be levied of the said men, than shall suffice for the necessary expences of the Premises; or that any who have levied mony for Contribution, to raise the aforesaid Charges, should by him detain the same, or any part thereof; or should presume, by any manner of Colour, to appropriate the same to other uses; Willing, that if more than may be sufficient shall be Collected, the same may be paid out among the Contributors, for the rate of the part to them belonging.

Witness My Self, at Westminster the 20th day of October, in the 10th year of Our Reign.

The Writs going the next year into the Inland-Counties, these Instructions following were prepared to be sent into every County, for the better executing of the said Writ.

Instructions and Directions from the Lords of the Council, for the Assessing and Levying of the Ship-mony against this next Spring.

After our hearty Commendations; Whereas His Majesty hath sent His Writ to you the High-Sheriff of the County of Middlesex, and to the High-Sheriff of the County of Hartford; and to the Majors and other Head-Officers of Corporate Towns within the said Counties, to provide one Ship of two hundred and fifty Tuns beside Tunnage, to be furnished with Men, Tackle, Munition, Victuals, &c, and other necessaries: to be set forth for the safeguard of the Seas, and defence of the Realm, at the charge of the said Counties, and Corporate-Towns in the same.

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We are by His Majesties directions and expresse Commandment, to let you know, that he hath upon most important and weighty Reasons concerning not only His Majesties own Honour and the ancient Renown of this Nation, but the safety of your selves, and all His Subjects in these troublesom and War-like times, sent out the afore-said *Writ* unto you, and the like into all the Counties, Cities and Towns throughout the whole Kingdom; that as all are concerned in the mutual defence of one another, so that all might put to their helping hands, for the making of such Preparations, as (by the blessing of God) may secure this *Realm*, against those dangers and extremities which have distressed other Nations, and are the common effects of War, whensoever it taketh a People unprepared: and therefore as His Majesty doubteth not of the readiness of all His Subjects to contribute hereunto with cheerfulness and alacrity; so he doth especially require your care and diligence in the ordering of this business, so much concerning His Majesty, and all His People, that no meanalty nor other miscarriage may either deter or disgrace the Service, which in it self is so just, honourable and necessary: for which cause we have, by His Majesties like directions sent you, together with the said Writs, these ensuing Advices and Instructions, for your better proceeding: which upon the receipt hereof, you the *Sheriff* of the County of *Middlesex* are presently to communicate with the Head-Officers of the Corporate-Towns in that County.

First, That you meet with the *Sheriff* and Head-Officers in the *Writ* mentioned, and that you make Assessments how much each of the said particular Counties should pay towards the setting forth of the said *Ship* according to the tenor of the said *Writ*. And because divers of you may not be acquainted with the charges of such Maritime preparations, and the mistaking thereof might hinder the Service, we have thought good to let you know, that upon a just and due valuation, we find, that the Charge of a *Ship* furnished will be 3300 *l.* whereof we think fit, that the County of *Middlesex* bear 1800 *l.* and the County of *Hartford* 1500 *l.*

That the City of *Westminster* and the Liberties bear 350 *l.* and the rest of the County the residue of the said sum of 1800 *l.*

Secondly, When you have settled the General Assessments, we think fit that you subdivide the same, and make particular Assessments, in such sort as other common Payments upon the County and Corporate-Towns afore-said, are most usually subdivided and assessed; and namely, that you the *Sheriff* divide the whole Charge laid upon the County into Hundreds, Lathes, and other divisions, and those into Parishes and Towns; and the Towns and Parishes must be rated by the Houses and Lands lying within each Parish and Town, as is accustomed in other Common Payments, which fall out to be payable by the County, Hundreds, Lathes, Divisions, Parishes and Towns. And whereas His Majesty takes notice, that in former Assessments, notwithstanding the expresse orders given in Our Letters to ease the Poor, that have been Assessed towards this service, poor Cottages and others, who having nothing to live on, but

3300 *l.*
Midd. 1800 *l.*
Hartf. 1500 *l.*
Westm. 350 *l.*

but their daily work; which is not only a very uncharitable Act in it self, and grievous to such People, but can admit no better instructions, than that it was done out of an adverse humour, of purpose to raise clamour, and prejudice the Service.

Wherefore His Majesties express Command is, that you take effectual care, and order by such Precepts and Warrants as you issue for this Service; that no Persons be Assessed unto the same, unless they be known to have estates in Mony, or Goods, or other means to live by, over and above their daily Labour: and where you find such Persons to be taxed, you are to take off what shall be set upon them, and lay it upon those that are better able to bear it. And that you may the better spare such poor people, it is His Majesties pleasure, that where there shall happen to be any man of ability, by reason of gainful Trades, great Stocks of Mony, or other usual Estates, who per-chance have, or occupie little or no Land, and consequently in an ordinary Landscot would pay nothing, or very little; such men be rated and assessed according to their worth and ability: and that the monys which shall be levied upon such, may be applied, not only to the sparing and freeing of the such poor people as aforesaid, but also to the easing of such, as being either weak of Estate, or charged with many Children, or great Debts, are unable to bear such great charge, as their Lands in their occupation might require, in an usual and ordinary proportion; and the like cause to be held by the Head-Officers in the Corporate-Towns, that a poor man be not set in respect of the usual Tax of his House, or the like, at a greater sum than others of much more wealth and ability; and herein you are to have a more than an ordinary care and regard, whereby to prevent complaints of inequality in the Assessments, whereby we were much troubled the last year.

Thirdly, To the end this may be effected with more equality and expedition, you the *Sheriff* are to govern your self in the Assessment for His Service, by such publick payments, as are most equal and agreeable to the Inhabitants of that County; and for your more easie and better proceeding herein, after you have accordingly rated, the several Hundreds, Lathes and Divisions of that County, you may set forth your Warrants to the Constables, requiring them to call unto them, some of the most discreet and sufficient men of every Parish, Town or Tything, and to consider with them how the sum charged upon each Hundred, may be distributed and divided as aforesaid, and with most equality and indifferency; and to return the same in Writing, under their hands, with all possible expedition: which being done, you are to sign the Assessment set on the several Persons of every particular Parish, Town or Tything, if you approve thereof; and if for inequality you find cause to alter the same in any part, yet after it is so altered, you are to sign the same, and keeping the true Copy thereof, you may thereupon give order, for the speedy Collection and Levying of such sums accordingly, by Constables of Hundreds, petty-Constables and others, usually applied for Collections of other Common Charges and Payments; and when any shall be by them returned to you, either to have refused or neglected to make pay-

10 *Caroli.*

Not to Assess poor Cottages, except means in Mony or Goods, to live over and above their labours.

If Taxed, then to alter it.

Persons of ability by reason of gainful Trades, &c. occupying of no Land, to be rated by their abilities

No man to be set by usual Tax of his House, at a greater sum than men of great abilities.

To proceed according to payments agreeable, and most equal to the Inhabitants of the County.

To assign the Assessment if approved of, otherwise to alter and keep a Copy.

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The Writ to be executed upon such as refuse, causing distresses to be taken and sold for their Assessment, and their charges &c.

ment, you are without delay to execute the Writ upon them, causing Distresses to be taken of them, to be sold for the payment of the Assessment, and the just charges thereupon arising, and the overplus of the Distresses to be rendred back. And you the Head-Officers of the Corporate-Towns aforesaid, observing your usual distribution by Wards, Parishes or otherwise, as is accustomed among you, for your common payments, are to do the like by your self and your several Ministers under you respectively, as is before appointed to be done by the Sheriff, so far forth as may be agreeable to the course and state of your Town or Corporation in the said several Assessments of each Parish; as well you the Sheriff, as you the Head-Officer of the said Towns, are to cause to be particularly expressed, how much every Clergy-man is rated for his meer Ecclesiastical Possessions, and what for his Temporal and Personal Estate; and to send to this Board under your hands within a month after the Assessment made, and returned to you, and signed by you, an exact and true Certificate, as well what is set upon every Parish in general, as particularly upon every Clergy-man, in each of them as aforesaid.

Return a Note to the Board of the Assessment, and the Names of the Clergymen within a Month.

Clergy to be Assessed for the present.

Upon a complaint by a Clergy-man, the Diocesan or Chancellor is to hear, &c.

Punisheth the Complainant, &c.

Persons refusing to do their Office, to bind them over to the Board.

Refusing to be Bound to Commit them.

Fourthly, Concerning the Assessment of the Clergy: Albeit His Majesty is resolved to maintain all their due Priviledges which they have enjoyed, in the time of his Royal Progenitors; yet being it hath not been hitherto made sufficiently appear to His Majesty or this Board, what Priviledges have been allowed to them in former times, touching Payments and Services of this nature; His Majesty is pleased, that for the present you proceed to tax and assess them for this service; and to receive and levy their Assessments, as you are Authorised to do of the rest of His Majesties Subjects; but with this care and caution, that you and your Ministers fail not to bear due respect both to their Person and Calling, not suffering any inequalities, or pressures to be put upon them. And as His Majesty is resolved that such your Assessments and Proceedings shall not be prejudicial in the future to them, or any of their Rights or Priviledges which upon future search shall be done unto them: so His Majesties pleasure is, that where any Clergy-man shall find himself justly grieved; upon complaint made to the *Diocesan*, under whom he is, or to his Chancellor, or to such other Person as the Diocesan shall appoint; you with some of them shall hear the same complaint, and (if there be cause) relieve the Party complaining according to equity; but if the Complaint shall be altogether frivolous and causeless, then the *Diocesan* is to punish the Complainant.

Fifthly, If any Constables, Bayliffs, or other Officers, refuse or neglect to do their duties in obeying your Warrants, either for Assessing, Collecting, or Levying, or for doing any other thing incident or necessary for this service, you are to bind them over to answer such their faults, and neglect of the Board; and if any of them refuse to enter into such Bond, then you are to commit them till they shall enter into such Bond accordingly, or perform their Duties according

according to your Warrants. That you are to take special care in the mean time, that notwithstanding their refusal or refractoriness, the Assessing, Collecting and Levying of the mony for the said Service, do proceed by your self, and such others as you shall appoint, and find more ready to do the same, the doing of the Service being by His Majesties *Writ* committed to your self. And therefore howsoever for your ease and better dispatch of the Business we like well, that you require the Assistance of the Constables, or ordinary Officers; yet in case any of them do not their duties, you are to do yours, and by your self, and such Instruments as you like best and shall choose, to see the business effected.

Sixthly, I you findor understand, of any Persons that are refractory, or do unnecessarily delay payment of what shall be assessed upon them for the said Service, whereof you must frequently and often call for an account from the Constables, Officers and others interested under you; you are presently without any delay, partiality or respect of Persons, to proceed roundly with them, of what quality or condition soever they are, according to His Majesties *Writ*, and not to defer meddling with them to the last, or until others have paid (as was done by some *Sheriffs* in former years,) whereby all the trouble and burthen was cast upon the end of the year, and those that were refractory gained time above those that were well-affected to the said Service.

Lastly, And for all other matters, not particularly mentioned in the Instructions, you must upon all occurrences govern your self according to the *Writ* to you directed, and as may best accomplish the Service committed to your trust; wherein you are to use all possible diligence to effect the same with speed, that the mony for this Service may be so truly paid in, as that Provision may be seasonably bought and provided to furnish, and to set forth the *Fleet*, at the day expressed in His Majesties *Writ*. For assure your self, that whatsoever you shall leave unlevied during your *Shrievalty*, will not be cast upon your Successor, as in former years some *Sheriffs* expected, and therefore retarded the service; His Majesty being resolved not to put upon the Successor the burthen of his Predecessors neglect; but that all such sums that shall be left unlevied by your self after the end of the year, shall be levied upon you by Warrant from your Successor, or such other Warrant as shall be thought most behoveful. And as for the money which shall be Levied and Collected for this service, you are from time to time to pay the same at *London*, to the Treasurer of the *Navy* for the time being, who hath Power and Warrant under the *Great Seal*, to receive the same from you and your Agent, and to give Acquittances and Discharges for what he receives for the said Service. And you are in like manner, from time to time, to call the Head-Officers to the Corporate-Towns, within your *County*, to Assess and Levy what is respectively set upon the same; and to require him either to send the sum to *London*, to his said Treasurer of the *Navy*, or to pay it to you in convenient time, to be sent up with what you are to pay in. And as you shall herein perform your duty with diligence, you may be assured to receive both

to *Caroli.*

Service Com-
manded to the
Sheriff himself.

To proceed a-
gainst any per-
sons whatso-
ever.

Governed ac-
cording to the
Writ.

The mony to
be paid in time-
ly, to make
provision to set
forth the *Fleet*
at the day.

Not the defer-
ring the Collec-
ting.

To pay the
mony to the
Treasurer of
the *Navy*.

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both favour and thanks from His Majesty, and so we bid you
farewell.

Your Loving Friends,

William Canterbury.
Thomas Coventry Custos.
Guil. London.
Henry Manchester.
J. Lenox.
Lynsey.
Arundel and Surrey.
Pembrock and Mountgomery.
Edward Dorset.
Edward Newburgh.
Francis Cottington.
Henry Vane.
Thomas Germin.
John Cook.
Francis Windebanck.

The *Writ* for *Ship-mony* being sent to the Lord Major of London, Sir Robert Parckhurst being then Lord Major, it was communicated to the Common-Council in *Guild-Hall*, as appears by the ensuing *Act* of Common-Council: whereupon a Petition was drawn up by the Committee of Aldermen and Common-Council men for that purpose appointed.

Commune

Commune Concilium tenet in Camera Guilhald' Civitat' Lond' secundo die Decembris Ann. Dom. 1634. Annoq; Regni Domini nostri Caroli, nunc Regis Anglie, &c. Decimo, coram Roberto Parkhurst Majore Civitat' Lond', Roberto Mason Armigero Recordatore Lond', Hugone Hamersley Milite, Richardo Dean Milite, Jacobo Cambell Milite, Georgio Whitmore Milite, Nicolao Rainton Milite, & Aldr'o, Christofero Clethero, Edwardo Bromfeild & Ricardo Fenn Aldr'is, Mauricio Abbot Milite & Aldr'o, Henrico Garway & Humfredo Smith Aldr'is, Willielmo Acton Milite, & Baronetto ac Aldr'o, Anthonio Abdy, Roberto Cambell, Henrico Prat & Henrico Andrews Aldr'is, Johanne Highlord Aldr'o & Johanne Cordell ejusdem Civitat' vicecom', ac majore parte Consiliariorum de Communi Concilio ejusdem Civitat' assemblat, ubi tunc & ibidem enactat' fuit prout sequitur, viz.

This day was read to this Court His Majesties Writ, directed to the Major, Commonalty and Citizens of this City, and to the Sheriffs of the same, for, and touching the providing of seven Ships of War, furnished with Men, Victual, and all warlike Provisions, for the defence of the Seas and other occasions in the said Writ contained; the tenor whereof ensueth in these Words following viz. *Carolus Dei Gratia, &c.* Whereupon this Court, after due and serious consideration taken of the premises, conceiving that by their ancient Liberties, Charters, and Acts of Parliament, they ought to be freed and discharged of those things, which by the said Writ are required by them to be done, doth Order and Agree, That the draught of a Petition touching the said Business this day read to this Court, shall be Engrossed, and with all dutiful respect for, and on this Cities behalf, humbly presented to the Kings most excellent Majesty.

It is likewise Ordered and Agreed upon by this Court, That (for the more full satisfaction of the Kings Most Excellent Majesty, whom God long preserve to Reign over us) the words (*so far as in them lieth*) which are inserted in an Act of Common-Council, made the nineteenth day of November last past, upon a submission made by this Court to His Majesties most gracious Judgement and Award, touching the difference between the Parsons and Vicars, and the Parishioners of the several Parishes of this City, shall be expunged and put out; and the same Act of Submission certified to His Majesty under the Seal of the Majoralty without those

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those words, *And that this shall be a sufficient warrant for the Clerk for the doing thereof.*

Item, It is Ordered and Agreed upon by this Court, that Sir *Hugh Hamersley* and Sir *James Cambell* Knights and Aldermen, Mr. *Recorder*, Mr. Alderman *Cletherowe*, Mr. Alderman *Bromfeild*, Mr. Alderman *Garway*, Mr. Alderman *Smith* and Mr. Alderman *Abdy*, or any four of them, together with *John Wollaston* Goldsmith, *John Gair* Fishmonger, and divers others, or any thirteen of them, shall meet together, and take due consideration of the particular objections and matters complained of by the Parsons and Vicars of *London*, in their Petition exhibited to the Kings Most Excellent Majesty against the Parishioners of the several Parishes of this City, touching Tythes; and the said Committees not only to conceive of fitting Answers to the same, but to consider of what matters and requests shall be thought fit to be humbly made and presented by this City, to the Kings Most Excellent Majesty touching the said Business; and to frame the same with advice of Mr. *Recorder*, and such learned Councel, as they shall call; and being framed, to present the same unto His Majesties Royal Consideration; and *Edward Renniock* and *Lewis Bromley* to warn the said Committees to meet together, and to attend on them.

Which Committee did agree upon this Petition following.

To the Kings Most Excellent Majesty.

The Humble Petition of Your Faithful Subjects, the Major, and Commonalty, and Citizens of Your City of *London*, most humbly shewing,

That where Your Majesty by Writ, bearing teste 20 Octobris last, Commanded Your Petitioners, at their Charge, to provide seven Ships of War, furnished with Men, Victual, and all Warlike provisions, to be at Portsmouth by the first of March next, and to continue from thence by the space of twenty six Weeks in Your Majesties Service, upon the defence of the Seas and other causes in said Writ contained:

Your Petitioners do in all submissive humbleness, and with acknowledgement of Your Sacred Majesties many Favours unto Your said City, inform Your Majesty, that they conceive, that by ancient Priviledges, Grants, and Acts of Parliament (which they are ready humbly to shew forth) they are exempt, and are to be freed from that Charge.

And do most humbly Pray,

That Your Majesty will be graciously pleased, that the Petitioners, with Your Princely Grace and Favour, may enjoy the said Priviledges and Exemptions, and be freed from providing of the said Ships and Provisions.

And they shall Pray, &c.

Mich.

10 Caroli.

Mich. 10 Car.

Star-chamber
Attorn' Regis
vers' Myn Esq;
& al'.

THE Defendant *Myn*, by colour of his Office of Clark of the *Hanaper*, demanded and received 4s. 6d. a-piece, for several Patents of the Sheriff of *Oxon* and *Warwick*; but half thereof being, at the most, due *per Stat. 8 Eliz.* which made perpetual 13 *Eliz.* He also, contrary to an *Act of Parliament 23 H. 8.* and contrary to a *Proviso* in a Decree of *Chancery*, for his increase of Fees, took 2s. 6d. upon several Commissions of Sewers, as due to him, there being only due to him 2d. upon Each. He also took 9l. yearly of the Chafer of Wax for the *Great-Seal*, after the Rate of Six-pence *per Pound*, for paying to him out of the *Hanaper* 360l. *per Ann'*, which His Majesty allowed for Wax, no Poundage-mony being due to him in that Case; for it was a Debt due by Contract from His Majesty, and no matter of Bounty. He likewise exacted, and took of Mr. *Pulford* 75l. for Poundage-mony, for paying forth of the *Hanaper* 3000l. due from His Majesty to him. He also took 7l. 10s. Poundage-mony, after 6d. the Pound, for paying out of the *Hanaper* 300l. to the use of Mr. *Amstrotter* His Majesties Ambassador, none being due in that Case; and he also took 10l. of him, which he exacted for Interest, in respect he paid him the Mony sooner than he used to Accompt in the *Exchequer*. He also demanded of one Mr. *Gibbs* 50l. for Poundage, after the rate of 6d. *per Pound* for 2000l. Fine given him by His Majesty, no part thereof being paid into the *Hanaper*, or to be paid out of the *Hanaper*; and therefore nothing due to the Defendant for it; yet he kept Mr. *Gibbs's* Patent seven years, and would not let him have it, because he refused to pay the Poundage. He also exacted, and took 5s. a-piece for several Patents of *Conge de Eslyer* and Royal Assent, granted for several Bishops, no Fee at all being due to him for such Patents. He also exacted upon several Patents of *Denization* 10d. a Name over and above his due Fee; and 14s. 8d. over and above his due Fee for a Patent of Creation of a Baron and Viscount, and 10d. for several Prebends and Deanries, besides his due Fees; and 14d. upon every Name in several Protections-Royal, more than was due. And the Defendant *Dawe*, by colour of his Office of Deputy to the Defendant *Myn*, took for several Escheators Patents 12d. a-piece more than the due Fee; and also extorted greater and more Fees than was due, for Drawing and Engrossing Eleemosinary Patents or Protections to Collect Charities for Losses by Fire, &c. And for these several Extortions both the Defendants were committed to the *Fleet*, *Myn* Fined 3000l. and *Dawe* 300l. and *Myn* suspended from the execution of his Place during His Majesties Pleasure.

Extortions in
the Clark of
Hanaper, and
his Deputy.

An. 1634.

Star-Chamber.
Attorn' Regis
vers' Roper
Knight.

Depopulation
and converting
Arable into Pa-
sture.

100*l.* Reward
to the Prosecu-
tor.

100*l.* to the
Minister.

100*l.* to the
Poor.

Mich. 10 Car.

THE Defendant being possessed of several Farm-houses, whereto was commonly used in Tillage a great store of Land, and several Plows kept and maintained thereupon, took all the said *Farms* into his own Occupation, and converted all the Lands thereto formerly used in Tillage into Pasture, and depopulated and pulled down Three of the *Farm-houses*, and suffered the other Two to run to ruine, and to lie uninhabited, although he might have had as great, and greater Rents for them than he had before; and also pull'd down, and suffered to go to decay, and be uninhabited, a *Water-Corn-Mill*, which before ground store of Corn weekly; and for this he was committed to the *Fleet*, Fined 4000*l.* and at the Assizes in *Kent* to acknowledge his Offence, and the Decree to be then read, 100*l.* Recompence to the Prosecutor, besides his Costs, and 100*l.* to the Minister of the Town, 100*l.* to be distributed to the Poor, and he ordered to repair, and build again within Two years, all the *Farm-houses*, Out-houses, and Corn-Mill, and make them fit for Habitation and Use, as formerly, and to restore the Lands formerly used to the Farm-houses, and to let them at reasonable Rents as the *County* will afford.

In November the *Prince Elector Palatine* died of the Infection of the *Plague*, having been at *Mentz*, where it raged, being eight days after the Enemies rendring of his most considerable Towns of *Frankendale*, into the Hands of the *English* Ambassadors.

Mich. 10 Car.

Star-Chamber.
Attorn' Regis
per Relator.
Sir George
Theobald
Knight vers'
Morley.

Reviling, chal-
lenging, and
striking one
of His Maje-
sties Servants
in the Court at
Whitehall.

THE Defendant, out of malice to the Relator, and in the Dining-Hall of His Majesties Palace of *Whitehall*, (whither His Majesty and the Queen were then coming to Dancing) shook his Fitt, and bent his Brows at the Relator, (then attending His Majesties coming, being one of His Majesties Gentlemen-Pensioners) laid hands on his Cloak, shook him, caught him by the Throat, called him base Rascal, base Dunghil-Rogue, swore he would be reveng'd of him, and would cut his Throat, threatned to kick him out of the House, and provoked and challenged him to go out and fight with him the said Defendant; and the Defendant being advised by the *Treasurer* of His Majesties Household, and the Comptroler, to be advised, and consider where he was; and being told, that they wondred he would abuse the Relator, being His Majesties Servant, the Defendant slighted their words, answered them very intemperately, and called the Relator base fellow. And after the Dancing was over, and the King gone out of the Room, the Defendant, in like sort as before, challenged the Relator, and after, in the Courtyard, took him by the Throat, and gave him divers blows; and for this he was committed to the *Tower* during the Kings Pleasure, Fined

Fined 10000*l.* to acknowledge his Offence, and submit himself to His Majesty, and to Mr. *Treasurer*, and to Mr. *Comptroller*, to pay the Relator 1000*l.* Damage, and make such Recognition to him as the Earl-Marshall should think fit and direct.

10 Caroli.

1000*l.* Dam.

Mich. 10 Car.

THE Defendant *Allinson*, at *Ipswich*, and other Places, reported falsely and maliciously to the scandal of the Arch-bishop of *York*, That His Majesty, in his Journey to *Scotland*, was entertained at the said Arch-bishop's House to His content; and at his going away, wished the said Bishop to ask something wherewith He might gratifie him; and that thereupon his Grace kneeled down, and requested His Majesty, That the Papists might have a Toleration for some Churches to exercise their Religion in, that His Majesty was greatly discontented thereat, and confined the said Arch-bishop to his House. And the Defendant *Robins* likewise published those scandalous Reports for News at *Tarmouth*. And for this Offence *Allinson* was committed to the *Fleet*, bound to his Good-Behaviour during life, and Fined 1000*l.* and likewise to be set in the *Pillory* at *Westminster*, with a Paper on his Head declaring his Offence, and there to acknowledge his Offence, and be whipt; and after be set in the *Pillory* at *York*, *Ipswich*, and *Tarmouth*, with the like Paper on his Head, and at each place to make the like acknowledgment as before. And *Robins* was committed to the *Fleet*, Fined 1000*l.* to make an acknowledgment at *Tarmouth*, and to pay the Arch-bishop 1000 Marks Damages.

Star-chamber.
Attorn' Regis
vers' Robins
& al.

The Parsons and Vicars in the City of London, in the Month of May, presented to His Majesty a Petition, Humbly shewing,

THat the Benefices in London were a Hundred Years since very great; That the Decree for Tythes, now in force, provides this 9d. to be paid upon every Pound rent without fraud; That notwithstanding the said Decree, (the variation of times considered) they are now very poor and mean, many of them not worth 40*l.* per Annum, the most not 100*l.* only one, Christ-church, a City-impropriation worth 350*l.* That the Petitioners have not independent maintenance, and for want thereof are daily thrust upon dangerous and great inconveniences: That this is because the Petitioners have no means assigned in the said Decree, for the discovering of the true value of their said Rents by the Oath of the Parties, and for that many London-Landlords (to the defeating of the Petitioners, and indangering their own Souls) have, and daily do contrive double Leases, or make Proviso's, wherein they call some small part of the true Rent by the Name of Rent, and all the rest (which yet is quarterly paid) by the Name of Fine, Income, or the like; which Practice, in the Year 1620, was signified to be unjust and Sacrilegious, under the Hands of the Reverend Bishops, and Heads of Houses

The London-
Clergies Peti-
tion to the
King concern-
ing that mat-
ter.

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Houses of both Universities. And lastly, for that the Lord Mayor for the time being is our ordinary Judge, and the Petitioners generally want both ability and leizure to Prosecute and Appeal from him to the Right Honourable the Lord Keeper, or otherwise to wage Law with Rich and Powerful Citizens.

May it therefore please the Great Patron of the Church, Your Royal Majesty, to take into Your Princely Consideration these Pressures and Grievances of Your Poor Clergy of London, with the Causes of the same, and to take such course for Redress thereof, as to Your Majesties great Wisdom and Clemency shall seem meet:

And Your Petitioners, &c.

At the Court at Greenwich.

The King refers the Petition.

HIS Majesty is graciously pleased to refer this Petition to the Lord Arch-bishop of Canterbury his Grace, the Lord Keeper, the Earl Marshal, the Lord Bishop of London, the Lord Cottington, My self, and the Lord Chief-Justice Richardson, or to Five or Three of Us, (whereof the Lord Arch-bishop of Canterbury to be one) where We are to call all Parties before Us whom this Business may any ways concern, and after full hearing and examining thereof, to end it if we can; otherwise to make report to His Majesty, where the impediment lies, that so his Majesty may take such further order therein, as in His Princely Wisdom He shall think fit.

Windebanck.

Which came to a Hearing the 5th of November before the King and Council, and it is thus expressed in the said Order.

Tythes within the City of London.

THIS day the Matter in difference concerning Tythes within the City of London, demanded of some particular Citizens then present, was heard by His Majesty sitting in Council. And whereas, after some entrance into the Cause, it was conceived by His Majesty, that the Case in question might concern the City in general, and to that end Mr. Recorder, and some Aldermen were required to attend, to take notice of His Majesties Pleasure therein: And forasmuch as the Case in question is not agreed upon, whereby His Majesty might proceed to hear Arguments, and debate thereupon; and being desirous, out of His Princely disposition, to reconcile the same, he did demand of Mr. Recorder, and the Aldermen there present, whether they would refer the Cause to His arbitrement: but they humbly desired His Majesty, in as much as they came not as Parties interessed in that Question, but in obedience only attended His Majesties Pleasure, they might have time to acquaint the Court of Lord Mayor and Aldermen, and Common-Council of the City therewith, which His Majesty willed them to do, and thereupon was pleased to give them respite until Sunday the sixteenth of this Month, at which time they were to attend with full Power.

Now

Now touching the particular Persons, who did attend according to order, about the Cause, It was thought fit they should be discharged of further attendance until that time.

Afterwards, on the 16th of November, another Order was made by the Council-Board to this effect.

Whereas the Fifth of this Month, at the hearing of the Matter in difference, concerning *Tythes* within the City of *London*, demanded of some particular Citizens, His Majesty sitting in Council, demanded of Mr. *Recorder*, and the *Aldermen* then present, whether they would refer the Cause to His arbitrement? whereupon they humbly desired His Majesty, in as much as they came not as Parties interessed in that Question, but in obedience only attended His Royal Pleasure, they might have time to acquaint the Courts of Lord *Mayor* and *Aldermen*, and Common-Council of the City therewith; which His Majesty willed them to do, and thereupon was pleased to give them respite until this present day. They did now accordingly attend, as did also they of the other Party, viz. sundry Ministers of the City of *London*. And the *Recorder* of the said City having related, that the afore-said Court of the Lord *Mayor* and *Aldermen* had been assembled, and acquainted with His Majesties Pleasure, did farther represent unto His Majesty, That it appeared by Record, that in the Reign of King *Henry* the Eighth, and in the same Cause which is now in agitation, upon like directions then given by the Council-Board, the said Cause was propounded to their several Wards; and the Common-Council having received their several Answers, did thereupon submit to the course set down; whereupon he did humbly move, whether His Majesty would be pleased that the same course be now taken? the rather in regard the Authority of the said Common-Council, is only for matter of Government and Safety, not meddling with the Right or Interest of any. But His Majesty having other Presidents as ancient as *Edward* the Fourth, alledged by Mr. Attorney-General, that the Common-Council had ordered Business of this very nature, did absolutely declare, that he would not wait for the issue of such a manner of proceeding, but he would expect a direct and full Answer from the Lord *Mayor* and *Aldermen*, and likewise from the Common-Council, which is the representative Body of the City; and that if any would be refractory, and not conform themselves, they should stand to their own hazard, and that he would take notice as well of them, as of those who would submit to His Arbitrement. And His Majesty was pleased further to declare, That His only end in taking this pains, was to settle Peace and good understanding between the Ministers and their Parishioners; and that he looked not so much at any Particular, as at the General, that there may be a firm Order and Accommodation well-established. Lastly, His Majesty was pleased to appoint this day *sevenight*, which was the 23d of that Month, for their next attendance; at which time they were to come with full Power to give their last Answer.

And

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An Order
concerning
Tythes within
the City of
London, the
14th of De-
cember.

And afterwards the same Matter being taken into consideration by the King and Council, on the 14th of *December*, produced another Order to this effect.

This day, His Majesty being present in Council, the matter in difference concerning *Tythes* within the City of *London*, and Liberties thereof, was heard at the *Board*: At which time the Lord Bishop of *London* was there present, and some of the Ministers on behalf of themselves, and the rest of the Ministers of *London* on the one part, and some of the *Aldermen*, and the *Recorder* on the behalf of the said City on the other part: After some debate did mutually submit the said differences to be arbitrated and settled by His Majesty, which His Majesty was pleased withal. And in as much as the said Lord Bishop, and the said Ministers, had now by an Instrument in writing, under Hand and Seal, tendered their said Submission to His Majesty; It was thought fit and equal, that by an Instrument in writing also under the Common Seal of the City, the like submission should be made by the City to His Majesty, which the *Aldermen* and *Recorder* authorized from the City this day presented to His Majesty, being present in Council: Whereupon it was resolved and ordered, That *Sunday* the 18th of *January* next should be appointed for the hearing of this Cause at large at the Council-Table, before His Majesty and the Lords; at which time the Parties on both sides, with their Council learned, were to attend.

The Dutch
and French
Churches.

The Arch-bishop of *Canterbury*, in his Metropolitcal Visitation, summoned the Ministers and Elders of the *Dutch* and *French* Churches to appear before his Vicar-General, who had two Injunctions prescribed by the Arch-bishop.

Two Injun-
ctions concer-
ning them.

1. That all the Natives of the *Dutch* and *Walloon* Congregations in his Grace's *Diocess* should repair to their several Parish-Churches of those several Parishes where they inhabited, to hear Divine Service and Sermons, and perform all Duties and Payments required in that behalf.

2. That the *Ministers*, and all other of the *Dutch* and *Walloon* Congregations, which were not Natives and Born-Subjects to the *King's Majesty*, or any other Strangers that should come over to them, while they remained Strangers, might have and use their own Discipline, as formerly they have done; yet it was thought fit that the *English Liturgy* should be translated into *French* and *Dutch*, for the better settling of their Children to the *English* Government.

Feb. 21. 1634.
They Petition
their Bishop.

Upon the publishing of these Injunctions, the *Dutch* and *Walloon-Churches* at *Norwich* presented an humble Petition and Remonstrance to the Bishop of that *Diocess*, that the said Injunctions seemed to be opposite, not only to the sundry Orders of His Majesties most Honourable Privy-Council, heretofore upon several occasions granted unto several Congregations

gations of the said Strangers, but chiefly to all the Gracious Privileges granted unto them of old, and continued during the Reign of three most famous *Princes*, King *Edward* the 6th, Queen *Elizabeth*, and King *James* of Glorious Memory, and confirmed by His now Majesties *Regal Word*, which He was pleased Graciously to give unto the Deputies of all the Strange Congregations in *England* prostrate at His Majesties Feet the 30th of *April* 1625. But the Petitioners finding no Redress as to their Complaint by the Bishop of *Norwich*,

10 *Caroli.*

Afterwards they presented a Petition to the Arch-bishop of *Canterbury*, to the effect of that given to the Bishop of *Norwich*; to which Petition the Arch-bishop of *Canterbury* gave an Answer in a Letter to the said *Dutch* and *Walloon* Churches at *Norwich*, Dated *Aug.* 19. 1635. to this effect.

They Petition the Arch-bishop of *Canterbury*.

That His Majesty was resolved, that His Instructions should hold, and that obedience should be yielded to them by all the Natives after the 1st *Descent*, who might continue in their Congregations, to the end the Aliens might the better look to the Education of their Children, and that their several Congregations might not be too much lessened at once; but that all of the *second Descent* born here in *England*, and so termed, should resort to their several Parish-Churches where they dwelt, concluding his Letter in these words. *And thus I have given you Answer fairly in all your Particulars, and do expect all obedience and conformity to my Instructions, which if you shall perform, the State will have occasion to see how ready you are to practise the obedience which you teach: And for my part, I doubt not but your selves, or your Posterity at least, shall have cause to thank both the State and the Church for this care taken of you; but if you refuse, (as you have no cause to do, and I hope you will not) I shall then proceed against the Natives, according to the Laws and Canons Ecclesiastical; so hoping the best of your selves, and your obedience, I leave you to the Grace of God, and Rest,*

W. Cant.

By these Injunctions the Forreign Churches were molested and disquieted several years together, for refusing Conformity, and some of their Ministers and others of their Congregations deserted the Kingdom, and went beyond Seas.

This year being the very first year after Bishop *Laud* his Translation from *London* to *Canterbury*, great offence was taken at his sudden setting-up of Pictures in the Church-windows at his Chappel at *Lambeth* and *Croydon*, the Portraiture of them being made according to the *Roman* Mifal, and bowing towards the Table or Altar, using of Copes at the Sacrament; whereupon the People made a great Clamour, that the Arch-bishop endeavoured to subvert God's true Religion, by Law established in this Realm, and instead thereof to set up Popish Superstition and Idolatry; aggravating this his Action to be the greater crime; because he was Primate and Metropolitan of

Offence taken at the Arch-bishop his setting-up of Pictures in the Church windows.

An. 1634.

The Arch-bishop's Defence.

of all *England*, principally intrusted with the care of Religion, who should of all other Men have been most vigilant against all Popish Idolatrous Innovations, and not professedly to set up a-fresh those Idolatrous, Superstitious, Romish, Pictures, which were by our Statutes, Homilies and Injunctions purposely defaced and broken down at the *beginning of Reformation*, as Monuments of Popery, Superstition and Idolatry, contrary to the Word of God, and established Injunctions of the Church of *England*.

But let us not be so uncharitable to the deceased, as not to mention his Defence made when he was living to a Charge of this nature, when he was afterwards questioned for the same in Parliament; therefore take what he said then in vindication of himself, which was to this Effect.

The first thing the Commons have in their Evidence charged against me, is (said he) the setting up and repairing Popish *Images* and *Pictures* in the Glass-windows of my Chappel at *Lambeth*, and amongst others, the Picture of Christ hanging on the Cross between the Two Thieves in the East Window; of God the Father in form of a little Old Man, with a Glory, striking *Myriam* with a Leprosie; of the Holy Ghost descending in form of a Dove; and of Christ's Nativity, last Supper, Resurrection, Ascension, and others, the Pattern whereof Mr. *Prynn* attested I took out of the very *Mafs-Book*, wherein he shewed their Portraitsures.

To which I answer, first, That I did not set these Images up, but found them there before.

Secondly, That I did only repair the Windows which were so broken, and the Chappel which lay so nastily before, that I was ashamed to behold, and could not resort unto it, but with some disdain, which caused me to repair it to my great Cost.

Thirdly, That I made up the History of these old broken Pictures, not by any Pattern in the *Mafs-Book*, but only by help of the fragments and remainders of them, which I compared with the Story.

Fourthly, Though the very resemblances of them be in the *Mafs-Book*, yet I protest I never knew they were there, till Mr. *Prynn* shewed them in it at this Bar: it is but a meer fallacy, the Pictures which I repaired are in the *Mafs-Book*; *Ergo*, I took the Pattern of them out of it.

Fifthly, Mr. *Calvin* himself allows an Historical use of Images, *Inst. l. 1. cap. 11. Sect. 12.* where thus he writes, *Neq; tamen ea superstitione teneor, &c.*

Sixthly, Our Homilies themselves allow an Historical use of Images, as appears by Page 64, 65.

Sevently, The Primitive Christians approved, and had the Pictures of Christ himself; *Tertullian* recording, That they had the Picture of Christ engraven on their Chalice, in form of a Shepherd carrying home the lost Sheep on his back.

Eighthly, I hope the repairing and setting up of these Pictures is no High-Treason by any Law.

Ninthly,

Ninthly, Images and Pictures in Arras, or Glafs-windows, are not against the Statute of 3 E. 6. c. 10. but Statues only.

10 Caroli.

To this was reply'd: First, That he did not find those Images there, compleat or entire, but broken and demolished by vertue of our Statutes, Homilies, Injunctions fore-cited, and that at the beginning of Reformation; ever since which time they continued unrepaired, as Monuments of our indignation and detestation against them, like the Ruines of our Abbies and Monasteries.

Reply.

Secondly, We have here *confitentem reum*, the Arch-bishop plainly confessing that we charge him with, *viz.* the repairing of the broken Images of Christ, the holy Ghost, in Glafs-windows; and no ways denying, extenuating, but justifying this Popish Fact of his against our Statutes, Homilies, Injunctions, Writers, yea, his own frequent Subscriptions to our Homilies, and Articles of Religion: Nay Mr. *Brown*, his own Joiner, attested, That he, by the Arch-bishop's directions, repaired and new-made the broken Crucifix in *Croyden* Chappel, as well as in *Lambeth* Chappel; and the Arch-bishop plainly confesseth, that he had no great devotion to serve God in *Lambeth* Chappel, nor yet to resort unto it, till these Images were repaired, and new beautified to please his Eyes.

Thirdly, That himself took pains, and gave directions to the Glasiers to make up the Stories and Pictures in the Windows, out of the broken fragments remaining, and new-made them to his excessive Cost, whereas he might have new-glazed them with unpainted Glafs, for the tenth part of that his painted Pictures cost him.

Fourthly, He confesseth the very Portraitures of the new-furbished Pictures in his Chappel to be all contained in the Mass-Book, which we made so apparent to your Lordships, that he could not but with shame deny it; but protests he knew them not to be in it, and that he took not his Pattern out of it. To which we must reply, That he having noted his Mass-Book, wherein we shewed them to be portrayed, in every Page almost with his own hands, and turning this Book so frequently over, must of necessity see these Pictures in it, which are so large and visible, unless we shall suppose him blind, or such an hater of them, as purposely to turn his Eye-sight from them, which is improbable; and therefore, notwithstanding this bold protestation of his, we hold our Argument both true and solid. The new Images in his Chappel-windows exactly agree in all things with the printed ones in his Mass-Book, which he could not but know, and see too, as oft as he noted or perused his *Roman Missal*; Ergo, He took his Pattern from the Mass-Book in the repairing, as well as his Popish Predecessors in the first making of them, since no other Pattern hath been produced by him, by which he gave directions to new-make them but by the *Roman Missal*.

Fifthly, We wonder greatly, that he that hath so much traduced and reviled Mr. *Calvin* publicly heretofore, should fly thus unto him for shelter now; but as he abused his Person, and Memory then, so he miserably perverts and misapplies his words now point-blank against his meaning. Mr. *Calvin* only affirms, That he is not so superstitious as to think it altogether unlawful to make any Images

of

An. 1634.

of Men or Beasts for a civil use, since Painting is the gift of God; from whence the Arch-bishop hath inferred, *Ergo*, Mr. Calvin holds it lawful to make the Picture of Christ's Nativity, last Supper, Passion, Resurrection, coming to Judgment; of God the Father, like an Old Man; of Christ on the Cross, of God the Holy Ghost in form of a Dove, and Cloven Tongues; of the Virgin Mary, other Saints, and to set them up in Churches, as he did these Images in the Chappel: Whereas Mr. Calvin, in the self-same place, in most positive terms, concludes the contrary; witness the very next words following those he objects: *Purum & legitimum utriusque usum requiro, ne quæ Dominus in suam gloriam, & bonum nostrum nobis contulit, ea non tantum polluantur præpostero abusu, sed in nostram quoque perniciem convertantur. Deum effingi visibili specie nefas esse putamus, quia id vetuit ipse, & fieri sine aliqua gloriæ ejus deformatione non potest*, which he proves at large. Then speaking of Images in Churches, he writes, they were introduced thither, *Non judicio aut delectu, sed stulta & inconsiderata cupiditate*.

This Author hath many such-like passages in his other Works, and therefore the Arch-Bishop's citing of him to justify his Chappel-Images, argues either extreme ignorance, or falshood.

Sixthly, Whereas he would pray in aid from our Homilies, to justify the Historical Use of these Images in his Chappel, the Homilies are so point-blank against it, as we have proved, that Impudence it self would blush to cite them to such a purpose, especially since the third part of the Homily against the peril of Idolatry, pag. 41, 42, 43. expressly resolves it unlawful to make the Picture of Christ, or any Person in the Trinity, much less to set them up in Churches.

Seventhly, For his averment that the Primitive Christians approved of Images, and had the Picture of Christ in their Churches and engraven on their Chalice, is a most notorious falshood. For Justin Martyr, Clemens Alexandrinus, Irenæus, Tertullian, Minutius Felix, Origen, Arnobius, Cyprian, Lactantius, Gregory Nyssen, Athanasius, Ambrose, Epiphanius, Eusebius, Hierome, Augustin, Hilary, Chrysostom, Theodoret, Theophylact, and other Ancients unanimously agree, that the Primitive Christians had no Images at all in their Churches; together with the Councils of Eliberis, Constantinople, Toledo, Frankford, and Constantine the Great, Constantius, &c. with fundry other godly Emperors, utterly demolished and cast them out of Churches; as Ecclesiastical Authors, our own Homilies, Writers, prove at large against the Papists. Lactantius and other Primitive Christians write expressly, that without doubt there can be no Religion at all in that place wheresoever any Image is; whereupon Epiphanius rent the Image of Christ, or some other Saint, which he found in a Church, painted in Cloth, out of holy indignation, as contrary to the Authority of the Scriptures. In few words, our own Homilies against the peril of Idolatry, Part 2. p. 38. expressly resolve, that when Images began to creep into the Church, they were not only spoken and written against by godly and learned Bishops, Doctors and Clerks, but also condemned by whole Councils of Learned men assembled together; yea the said Images by many Christian Emperors and Bishops were defaced, broken

broken and destroyed; which Mr. Calvin in the place objected by the Bishop affirms likewise: And therefore it is a most desperate assertion in the Arch-Bishop, thus falsly to affirm the contrary, point-blank against our Homilies and his own subscription to them. And whereas he cites *Tertullian*, to prove that the Christians in his days had the Picture of Christ upon their Chalice; we answer, that if the Book *De Pudicitia* be *Tertullian's* own, (of which some doubt) yet his words import no such thing, which are these *Ap-
rabolis licebit incipias ubi est Ovis perdita a Domino acquisita, &c.
Pictura Calicum vestrorum, &c.* (not *nostrorum*.) And that he hath most grossly abused *Tertullian*, your Lordships and his Audi-
tory, in alledging *Tertullian* in defence of Images, and their use among the Primitive Christians: certainly *Tertullian* is so far from any such opinion, that he hath written a whole Book *De Idololatria*, next before this *De Pudicitia*, wherein he expressly condemns, not only the having, but making of any Image or Picture for any use, and the very Arts of Carving and Painting Images, as contrary to the second Commandment (as the *Jews, Josephus, Philo* and others did before him, and the very *Turks and Persians* at this day.) Take but this sentence of his instead of many; *Omnis forma vel formula Idolum se dici exposcit. Idolum TAM FIERI quam coli Deus prohibet: quanto precedit, &c.* which he prosecutes at large through-
out this Eloquent Book, and therefore his sophistry in citing *Ter-
tullian* for defence of Images in Churches, who is thus point-blank against the making of any Image whatsoever, even for civil uses, is an intolerable, inexcusable boldness.

Eighthly, Whereas he answers, that the setting up of these Glass-Images is no high *Treason* by the Statute: We grant it not to be so simply in it self, neither do we urge it to be so, but as it tends to subvert our Religion, Laws, and set up Popery, concurs with his other practices of this nature, so it may, and will prove high *Treason*. The second part of the Homily against the Peril of Idolatry, *pag. 37.* assures us, that the maintenance of Images hath brought in a Sea of Mischief, horrible Schisms, Rebellions, Treasons; and his maintaining them hath done the like.

Ninthly, We conceive that the Statute of 3 *E. 6. c. 10.* which commands all Images of Stone, Timber, Alabaster, or Earth, graven, carved or painted; which heretofore have been taken out of any Church or Chappel, or yet stand in any Church or Chappel, to be defaced and destroyed, extend to Images in Glass-Windows as well as others, which are but painted Earth; and that which confirms us in this opinion is, that the Homilies against the Peril of Idolatry, (the occasion of this Law) and the Injunctions of Queen *Elizabeth* made in pursuance of it, extend in direct terms to Images in Glass-Windows, as well as to Images of Stone, Timber, and the like: yea, the practice of that time in defacing the Glass-Images in *Lambeth Chappel Windows*, (which he of late repaired) and in most other places, infallibly proves it; together with the Statute of 3 *Jac. c. 5.* which reckons up Images and Crucifixes, of what matter soever, among the Relicks of Popery, and enjoins them to be defaced: wherefore this evasion of his is most false and frivolous, especially since Popery may creep in at a Glass-Window, as well as at a Door; and our Homilies, Injunctions, Writers censure all of them like, if this Statute do it not.

After

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After the Reply was made, the Bishop proceeded in his Defence.

The second thing objected against me, (said he) as a Popish Innovation in my Chappel at *Lambeth*, is, my removing and Railing in the Communion-Table there, Altarwise, with the ends of it *North* and *South* against the Wall; my furnishing it with Basons, Candlesticks, and other Furniture, and hanging a Cloth of Arras behind it, with the Picture of Christ and his Apostles, eating the Lords Supper together.

To which I answer; *First*, That the Railing in and Placing the Table Altarwise, is warranted by Queen *Elizabeth's* Injunctions, which prescribe, that the holy Table in every Church be decently made and set in the place where the Altar stood: Now the Altars generally in all Churches, as all Antiquity manifests, stood at the *East*-end of the Quire, *North* and *South* close to the Wall, as the Tables were lately placed, and there were Railed in: this therefore is no Innovation.

Secondly, The Furniture on the Altar is no other than such as is in use in the Kings own Chappel at *Whitehall*, and had been there used ever since, and before my time.

Thirdly, That the Arras-Piece at the Back of the Table, containing the story of Christ's last Supper, was fit for that place and occasion: that such Images and Representations were lawful, approved by the *Lutheran* Churches, yea by Mr. *Calvin* himself, for an Historical use, in the place fore-cited, *Inst. l. 1. c. 11. Sect. 12.*

Rep'y.

To this the Commons Replied; *First*, That neither Queen *Elizabeth's* Injunctions, nor the Rubrick in the Common-Prayer Book, nor any Law or Canon of our Church, prescribe the Railing in of our Communion-Tables, or placing them Altarwise against the Wall, with the ends *North* and *South*; there is no fillable in any of them to warrant any such Popish Innovation, prescribed only by Popish Canons, as we have proved: That it cannot be proved that Altars were generally so placed and railed in anciently, either in *England* or elsewhere; the contrary whereof we shall prove anon: That the makers and executors of these Innovations knew best of any, where, and how Communion-Tables were to be situated by vertue of them; and they generally placed them throughout the Realm, in the midst of the Quire or Chancel, with the ends *East* and *West*, standing a convenient distance from the *East* Wall, without any Rail about it, in which posture they generally stood in all Churches, Chappels, and in *Lambeth-Chappel* it self for one, ever since these Injunctions published, till this Innovating Arch-Bishop altered this their ancient Situation. Yet both the Rubrick in the Common-Prayer-Book, the Queens Injunctions, the 82^d Canon, Bishop *Jewel*, Bishop *Babington*, Doctor *Fulk*, and other of our Writers agree, that when the Sacrament is administered, it ought to stand in the Body of the Church or Chancel, of which more hereafter: This therefore is an Innovation, and that a Popish one too, tending to introduce private Mass, to remove the Lords Table as far as possible from the view and audience

dience of the common People, when the Sacrament is celebrated at it. 10 Caroli.

Secondly, We have proved, that this Altar-furniture of Candlesticks, Tapers, Basons, Crucifixes, and the like, was originally borrowed from the *Roman* Ceremonial, Pontifical, and the Popish Council of *Aix*, which enjoyn them; That the 3^d part of our Homilies against the Peril of Idolatry, and Queen *Elizabeth's* Injunctions, (which he cites for placing of the Lords-Table Altar-wise) *Injunct.* 2. 23, 25. condemn, censure, abolish, as Superstitious, Ethnical and Popish, all Candlesticks, Trendals, Rolls of Wax, and setting up of Tapers, for that they be things tending to Idolatry and Superstition, which of all other offences God Almighty doth most detest and abhor, for that the same diminish most his Honour and Glory: Therefore the Kings Altar-furniture in His Chappel at *Whitehall*, can be no justification nor extenuation of his offence, who should have reformed His Majesties Chappel, (whereof he was the Dean and Superintendent according to our Laws, Homilies, Injunctions, which condemn such Altar-trinkets) not conformed his own Chappel-Altar to the Kings, in these meer Popish superstitious Innovations.

Thirdly, The Arras-hanging was rather suited to the Crucifixes in the Glasse-window over it, and other Images of Christ in that Chappel, than to the Place or Lords-Table where it hanged; the Table and Sacramental Elements themselves, with the usual participation of them every Month, being sufficient to mind us of our Saviours last Supper, Passion, Death too, and to shew them forth till he come, (who used no such Pictures nor Crucifixes, when he instituted his last Supper) without any such Image or Crucifix; which being condemned by our Statutes, Homilies, Injunctions, Canons, Writers, as we have formerly evidenced, yea by all Antiquity, by Mr. *Calvin* himself, and many *Lutherans* too, ought not to have been placed there, the rather, because there is no Warrant nor Precept for it, but only in the *Roman* Ceremonial, *Pag.* 69, 70. his Conformity whereto was the only ground of hanging those Arras-Pictures, which well deserves another hanging, especially in an Arch-Prelate who professeth himself a Protestant, and as averse from Popery as any man whatsoever.

The third sort of Innovations in my Chappel charged against me, is the setting up of a *Credentia* or Side-Table, my own and my Chaplains bowing towards the Table or Altar at our approaches to it, our going in and out from the Chappel; my Chaplains with my own using of Copes therein, at the celebration of the Lords Supper, and solemn consecration of Bishops, attested by Doctor *Heywood* my own Chaplain, who confessed, that he celebrated the Sacrament at *Lambeth-Chapel* in a Cope; That my other Chaplains did the like, and that he thought I was sometimes present when they did it; That the Bread when the Sacrament was administered, was first laid upon the *Credentia*, from whence he took it in his hand, and then carried it too, and kneeling down upon his Knee presented it, laid it on the Lords Table, on which there were Candlesticks, and Tapers, but not burning, as he had seen them at *Whitehall*; which Mr. *Cordwell*, once my Servant, likewise deposed: adding that I was present sometimes when this was done, and that my Chaplains

Defence of
the Arch bi-
shop to the
third Inno-
vation.

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lains bowed down thrice towards the Altar at their approaches to it.

To which I answer, *First*, That I took my pattern of the *Credentia* from Bishop *Andrews* Chappel.

Secondly, That this bowing towards the Altar was used in the Kings Chappel, and in many Cathedrals, both in Queen *Elizabeth* and King *James* their Reigns.

Thirdly, That the use of Copes is prescribed by the 24th Canon of our Church, *Anno* 1603. which orders thus; In all Cathedral and Collegiate Churches, the Holy Communion shall be administred upon principal Feast-days, sometimes by the Bishop if he be present, and sometimes by the Dean; sometimes by a Canon or Prebendary, the Principal Minister using a decent Cope: This therefore is no Innovation.

Reply.

To this was retorted in general, that Sir *Nathaniel Brent*, and Dr. *Featly* deposed, there was no such *Credentia*, bowing towards the Table, Altar, or any Cope at all used in *Lambeth-Chappel*, in his Predecessors time; therefore all these are meer Innovations: In particular it was replied, that it appears not by proof Bishop *Andrews* had any such Utensils, Vestments, or bowing in his Chappel, therefore this is a meer groundless evasion. But admit he had, yet Bishop *Andrews* Chappel was no Law, Canon, nor pattern for him to follow, against our Laws, Common-Prayer-Book, Homilies, Injunctions, which exclude such Innovations: And if the Pattern of the Chappel and its Furniture which we gave in evidence were Bishop *Andrews*, as he avers, it was as grossly Popish and Superstitious as the Popes, or any Popish Prelates Chappel whatsoever. As for the *Credentia*, it is directly taken out of the *Roman Ceremonial* and *Pontifical*, as we have proved, the only Canons we know prescribing it: and we find the use of it only in some Popish Churches, and mentioned no where but in the *Roman-Missal*, among the Rites of celebrating the Mass; therefore it is a meer Popish Utensil, appropriated to the Mass, and a forerunner of it.

Secondly, This bowing to and towards the Altar, was never prescribed by our Statutes, Articles, Homilies, Common-Prayer-Book, Injunctions, Canons, never practised by any till of late, but some few Popish Court-Doctors, and Cathedralists; never used by his Predecessor, or his Chaplains; introduced only by Papists at the first, in honour and adoration of their Breaden God upon the Altar; and enjoined only by the *Roman-Missal*, Ceremonial and Popish Canonists, as we have largely manifested; therefore not to be justified or excused.

Thirdly, The Book of Common-Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of the Church of *England* (the only Directory what Vestments, and Ceremonies are to be used, confirmed by our Laws) prescribes not any of those; warrants not, but excludes the use of Copes upon any occasion: whereupon our Homilies and best Writers condemn Copes as Jewish, Popish, Paganish, enjoined only by the *Roman Ceremonial*, and *Pontifical*, as we have proved, Injunctions deeming them Popish: yea, the third part of the Homily against the *Peril of Idolatry*, hath this memorable passage concerning them, Page 72. *And because*

because the whole Pageant must thoroughly be played, it is not enough thus to deck Images and Idols,) with Gold, Silver, Rich, Wanton and Proud Apparel, tempting their Paramours to wantonness) but at last come in the Priests themselves, likewise decked with Gold and Pearls, that they may be meet servants for such Lords and Ladies, and fit worshippers of such Gods and Goddesses; and with a solemn pace they pass forth before the Golden Puppets, and fall down to the ground on their Marrow-bones before the honourable Idols, (and their gorgeous Altars too:) therefore certainly it is impudency for him thus to introduce and justify them against these Authorities. Now whereas the Arch-Bishop pleads the 24th Canon, made in the year 1603, to warrant the use of Copes in his Chappel; We answer, first, That the Canon extends only to Collegiat and Cathedral Churches, not Parochial, much less to Chappels: therefore it can no way warrant but condemns this use of Copes in his Chappel.

to Caroli-

See the Homily.

Secondly, It enjoyns only the chief Minister to use a decent Cope, not a gaudy one with Images, and rich embroidering upon it, such as the Copes were.

Thirdly, This Canon was never binding to any, but meerly void in Law, being never confirmed by Parliament, and crossing both the Common-Prayer-Book and Homilies ratified by Parliament; therefore all these his Answers in justification of these Innovations display his Impudence to the World in justifying such Popish Reliques as these.

Some of the Scots who were members of that Parliament which sat at *Edinburgh Anno 1633*, and were then against passing of the Act for wearing of Whites, &c. remained full of discontent; and with some of their privy there was put forth in Print, a Pamphlet called a Libel, which reflected upon the Kings proceedings in the said Parliament, charging His Majesty with gaining of Votes by undue means and practice, to obtain the said Act to pass in that Parliament: which Libel this Year past through many hands till *Spottiswood* and some of the Lords of the Council found out the Author, and it fell upon one *Hagg*, who escaped and went beyond Seas; but upon further enquiry it was fastned upon the Lord *Balmerino*, who was presently apprehended and committed Prisoner to the Castle at *Edinburgh* for Treason, afterwards tryed and condemned; but the King was graciously pleased to restore him to his honour, life and estate.

At *Edinburgh* there was a Printed Pamphlet dispersed reflecting upon the King.

Lord *Balmerino* questioned for the same, and condemned.

His Father had been Secretary to King *James*, who as the History saith, shuffled a Letter of his own contriving, from King *James* to Pope *Clement*, in favour of the Catholicks, for which *Balmerino* the Father was questioned by King *James*, and accused of High-Treason, and condemned to suffer death; but afterwards pardoned by King *James*, and restored to life, estate and honour: so both Father and Son had an obligation put upon them by both their Majesties; yet the friends of *Balmerino* remained dissatisfied with both the sentences of death, and would be talking that which might have brought them also into danger.

His Father was likewise arraigned and condemned in King *James's* time.

But both pardoned by King *James*.

About this time there hapned a great Battel in *Germany*, of which take a brief account, for the Victory was great.

After

An. 1634.

The Cardinal
Infanto marches with an
Army to the
Emperors assistance.

After the disorder of the Imperial Army by *Wallenstines* murder, the King of *Hungary*, Son to the Emperor, was liberal and bountiful to the Souldiers, giving them plenty of money for Pay; took the Oaths of the Souldiers to be faithful to the Emperor: but the Emperor stood in great need at this time of help and assistance from his Allies and Friends to support the House of *Austria*, for the *Swede* at this time had got almost half *Germany*; whereupon the Cardinal *Infanto* came from *Milan* with the old *Spanish*, *Italian* and *Burgundian* Bands through all *Switzerland*: these Forces joyning with the Imperialists, marched into the Dutchy of *Wirtemburgh*; but *Nordlingen* being a strong Town and Garrison in their way gave a stop to their Advance.

They came to the Emperors Camp before *Nordlingen* on the 2d of *September*, and alarmed the *Swedes*, who gather all their Forces together; *Gustavus Horn* joyns with the Duke *Bernard*, and advises rather to spare the Enemy a Town or two, than to hazard the Publick Cause upon a Battel.

After this a Second Council of War was called, and it was resolved again not to fight, but to stay till the *Rhinegrave* with his Troops, consisting of 4000 men, were arrived; but upon *Munday*, *September* the 4th, the Field-Marshal *Cratz*, together with Major-General *Kagg*, arrived to the Assistance of the *Swedes*: this prevailed with Duke *Bernard* to put on a Resolution to Fight, and not to stay the coming of the *Rhinegrave* and his 4000 men.

On *Tuesday* the 5th of *September* they joyned their Forces, and in the Evening advanced into the Valley under *Goppingen*, half a League from the Imperial Camp.

The Battel
near *Norlingen*.

September the 6th, The *Swedes* very early before six of the Clock assaulted the Imperial entrenched Army, with great fury obtained some Standards and Ensigns, and three pieces of Canon, took one of the Sconces upon the Hill; about which were engaged two Regiments of *Swedes*, who lost their lives, being blown up either by a Mine sprung, or fire given to Gunpowder in the Sconce. But this loss did not at all startle the *Swedes*, nor the Enemies great Canon from a Battery; but on they marched to the Body of the Enemy, who had the remainder of their Ordnance, laden with great and small shot, hid behind some Bushes on a rising ground; and when the *Swedes* came somewhat near unto them in Battel-array, they discharged their Canon behind the Bushes all at one time, which did incredible slaughter, and made partitions in the *Swedes* Army with men that fell like Streets. This much daunted the *Swedes*, and in this confusion the Horse of the Imperial Army commanded by the Duke of *Lorraine* and *John de Wert* managed their Armes so well, insomuch as in two hours time they obtained an absolute Victory over the *Swedes*. 2000 *Swedes* Horse were cut off, 4000 *Wittemburghers* were put to the Sword, 2000 lost at the Sconce; The *Swedes* likewise lost all their Canon, being eighty pieces of Ordnance, 300 Colours, their Wagons, Bag and Baggage; and that brave Soldier *Gustavus Horn* was taken Prisoner. This great success of the Imperialists answered for their loss at the two Battels of *Lipswick* and *Lutzen*.

The *Swedes*
overthrown.

The *Swedes*
rally and get
up an Army.

Duke *Bernard* was wounded, but retired to *Helbrun* to collect again the dispersed Troops, 1000 *Swedes* Horse escaped and came to the

the *Rhinegrave*, where, in a short space, the *Rhinegrave* had an Army of 6000 Men, and joining with *Baniere*, got up a considerable Army, and staying till Duke *Bernard* came to them, they fell into Action to offend the Enemy; and meeting with some of the *Infanto's* Army, which he was sending back by the way of *Brisac*, had thereabouts a brisk Encounter with them; and though the Enemy were Armed *Cap-a-pe*, yet the *Swedes* killed many, and took many Prisoners at that time.

to *Caroli.*

This Summer Her Majesty made a Progress North of *Trent*, the King accompanying Her all the way: they had no sooner passed the *Trent*, but were entertained at *Bolsover-Castle* in *Darbyshire* by the then Earl (afterwards Duke) of *Newcastle*, where nothing was spared which might add Splendor to the Feast, so highly Honoured with the Presence of both their Majesties.

The Queen goes a Progress.

The Earl sent for all the Gentry of the Countries of *Darby* and *Nottingham* to come and wait upon their Majesties, who came with great joy and chearfulness, and were nobly Treated by the said Earl, for he spared for no Costs to render his Reception of both their Majesties worthy their Royal Acceptance.

The Expence which the said Earl was at in the preceding year in entertaining the King at *Welbeck*, and at this time at *Bolsover*, was estimated by Men of judgment to cost the said Earl 10000 *l.* and upwards.

All this was but an Earnest of this Earl's Duty and Love to his Prince, for afterwards, when the unhappy Wars broke out, he adventured Life and Fortune for the King; and his Estate was sold by the Parliament as forfeited, out of which was raised by the sale thereof 111593 *l.* 10 *s.* 11 *d.* Besides, he had other great losses out of his Estate Real and Personal, during those troublesome times.

On the 19th of *July*, this year, Mr. *Thomas Cook* of *Brazen-nose* College in *Oxford*, was enjoined Recantation for using some Passages in a Latin Sermon, reflecting upon the *Arminian* Party, wherein he violated the King's Edicts concerning such Points of Controversie.

Mr. Cook ordered to recant his Sermon.

Likewise *William Hobbs*, Fellow of *Trinity* College, for Preaching against Falling from Grace, &c. and reflecting upon the *Arminian* Party, contrary to the King's Declaration, was on the 25th of *January* enjoined Recantation for the same, Recorded in the University Register, fol. 54.

Mr. Hobbs ordered to make Recantation.

It was usual in those days, by the Intercession of the Queen, Queen-Mother, and Powerful Privy-Councillors about the King, who then were suspected to be, and afterwards dyed, of the *Romish* Religion, viz. the Lord Treasurer *Weston*, Lord *Cottington*, and some others of the Privy-Council of the same *Romish* Faith, to prevail with the King to grant *Letters of Grace* to stay Proceedings against Recusants upon any Indictment, Presentment or Information, for or concerning Recusancy. Here followeth the Example of Two or Three of many that were granted in that kind in that year.

Some Privy-Councillors Romish-Recusants.

An. 1634.

A Letter of Grace from the King to a Romish-Recusant.

* He was afterwards a great Actor in the Irish Rebellion.

By the King.

WHereas We have received good Testimony of the Loyalty, and Duty and Affection of Our trusty and well-beloved Captain* John Read; and because he may be subject to the Penalties of the Laws against Recusancy, these are to signifie, That We are graciously pleased to extend Our Special Grace towards him; and do hereby Will and Command, That no Indictment, Presentment, Information, or Suit in Our Name, or in the Name of any other, be henceforth commenced, prosecuted, or accepted against him by any of Our Officers or Subjects whatsoever, for or concerning Recusancy. And if any such shall happen, then Our Will and Pleasure is, That upon sight hereof the same shall be discharged and made void, or otherwise not prejudicial unto him. Given under Our Signet the 13th day of July, in the 10th Year of Our Reign.

To all and singular Our Judges of Assize, Justices of Peace, Mayors, Sheriffs, Clerks of Assize, Bailiffs, Constables, Informers, and all other Our Officers and Ministers whom it doth or may concern, and to every of them.

Charles Rex,

Another Letter of Grace of the Kings to a Romish Recusant.

TRusty and Well-beloved, We greet you well. We have been often and earnestly moved by Our dear Mother the Queen-Mother of France, to extend Our Favour to Sir Henry Bedingfeild Knight, his Wife and Family, who are Popish Recusants, and We are very willing, that for Her sake they should receive Our Favour, when they shall stand in need thereof for that Cause; yet we must so perform it, that it may not be of ill example to others, who are or shall be in the like kind obnoxious to Our Laws for Recusancy, nor be scandalous to Our Government, whereof We are and must be tender: therefore Our Will and Command to you is, That you take knowledge of Our Pleasure herein, and take special care to preserve the said Henry Bedingfeild, and his Wife, from the danger of the Laws made against Popish Recusants, that Sir Henry himself shall not be impeached any way for any of his Family for being Popish Recusants; for the doing whereof from time to time by such ways you shall think fittest, this shall be your Warrant. Dated the 20th of November 1634.

Charles Rex.

Another Letter of Grace of the Kings to a Romish Recusant.

WHereas Our trusty and well-beloved Sir Francis Englefeild Knight and Baronet being a Recusant, is thereby subject to Our Laws and Statutes in that case provided; these are to signifie Our Royal Will and Pleasure, That no person or persons shall at any time hereafter sue, prosecute, implead, either by way of Indictment, Information, or otherwise, against the said Sir Francis Englefeild, for being a Recusant, or cause or procure him to be indicted or convicted by vertue of any of Our Laws, or Statutes against Popish Recusants,

till

till We shall signifie Our Pleasure to the contrary. Given under Our Signet at Our Palace at Westminster the 6th day of December, in the 10th Year of Our Reign.

10 Caroli

To all Our Judges of Assize, Justices of the Peace, Mayors, Sheriffs, Bailiffs, Constables, Headboroughs, Pursivants, and to all other Our Officers and Ministers, whom it may or doth concern, and to every of them.

Besides these Letters of Grace, Protections were usually granted, that Courts of Justice should not proceed against such Popish Recufants, which were signified by a Letter from a Secretary of State to the Judges of the Court, that they should not be Estreated into the *Exchequer*. Those Protections were in form following.

UPon special directions given by His Majesty, and signified by a Letter from Mr. Secretary to the Right Honourable Sir Tho. Richardson Knight, Lord Chief-Justice of His Majesties Court of *Kings-Bench*, bearing date the sixteenth day of *April* 1634, and shewed now to this Court; it is ordered by this Court, That the Recognizance taken in Court at the Sessions of Goal-delivery, holden for the County of *Middlesex*, at *Justice-Hall* in the *Old-Baily*, the 4th day of *October* last past, wherein *Alexander Baker*, of the Parish of *St. Andrews* in *Holborn* in the County of *Middlesex* Gentleman, was bound to His Majesty with two Sureties for his appearance at the Sessions of Goal-delivery then next following, at which Sessions he made default, shall not be Estreated, but all further Proceedings thereupon shall be forthwith stayed.

17 Ap. 10 Car.
p. 157. of the
Sessions-Book.

Titles of PROCLAMATIONS, &c.

Pro Anno 1634.

A Proclamation appointing the time when His Majesties Subjects may approach to the Court for Cure of the Disease called the *King's-Evil*.

Whitehall,
April 22.

A Proclamation commanding all Our Subjects, being *Sea-men* and *Ship-wrights*, in the Service of any Forreign Prince or State, to return home within a certain time.

Greenwich,
May 5.

A Proclamation appointing the *Flags*, as well for Our Navy-Royal, as for the Ships of Our Subjects of *South* and *North-Britain*.

Greenwich,
May 5.

A Proclamation restraining the Abuses in Gold-weights, fraudulently committed contrary to a former.

Greenwich,
May 5.

A Proclamation concerning *Tobacco*.

Greenwich,
May 19.

An Acquittance to be given by the King's Commissioners for the Contribution-mony Collected for the Repair of the *Cathedral of St. Pauls*.

An. 1634.

A Decree in the *Star-Chamber* concerning Complaints made about the stop and refusal of *Farthing-Tokens*.

Greenwich,
June 25.

A Proclamation concerning saving of *Fuel*, Materials, Labour, and lessening the great annoyance of *Smoak*.

Theobalds,
July 13.

A Proclamation concerning the well-ordering the Trade of making and selling of *Soap*.

Hampton-
Court, Sept. 23.

A Proclamation appointing the time when His Majesties Subjects may attend to be Cured of the Disease commonly called the *Kings-Evil*.

Hampton-
Court, Oct. 17.
10 Car.

A Proclamation against the keeping and using of *Setting-Dogs*.

Theobalds,
Novemb. 13.

A Proclamation for Reforming and Preventing the Frauds frequently practised, as well in the over-weight of *Butter-Casks*, as well as in the false packing of *Butter*.

Whitehall,
Decemb. 3.

A Proclamation for Reformation of the many Abuses committed against the Corporation of *Gardiners*.

Whitehall,
Decemb. 7.

A Proclamation for the better-ordering the *Transportation* of *Cloths*, and other *Woolen Manufactures* into *Germany*, and the *Low-Countries*.

Whitehall,
Decemb. 14.

A Proclamation forbidding any resort to his Majesty's Court, for Cure of the *Kings-Evil*, till *Easter* next.

Whitehall,
Jan. 20.

A Proclamation for the *Pricing of Wines*.

Whitehall,
Jan. 25.

A Proclamation for the well-ordering and settling the Manufacture of *Soap*, under a *Rule* and *Government*.

Whitehall,
March 14.

A Proclamation for preservation of Grounds for making of *Salt-Peter*, and to restore such Grounds as are now destroyed, and to command Assistance to be given to His Majesties *Salt-Peter-makers*.

Historical

Historical Collections

For the Year 1635.

The Arch-Bishop of Canterbury's Diary.

AND from thenceforward all in firm kindness between K. B. and me.

May 18. *Whitsunday* at *Greenwich* my Account to the Queen put off till *Trinity-Sunday*; May 24. then given her by my self, and assurance of all that was desired by me, &c.

May, June, July; In these Months the troubles at the Commission for the Treasury; And the difference which happened between the Lord *Cottington* and my self, &c.

Saturday July 11. Wednesday July 22. two sad meetings with K. B. and how occasioned.

July 12. Sunday, at *Theobalds* the Soap-business was ended, and settled again upon the new Corporation, against my offer for the old Soap-boilers; yet my offer made the King's Profit double two years after the new Corporation was raised: how it is performed let them look to it, whom His Majesty shall be pleased to trust with His Treasurer's Staff. In this business, and some other of great consequence, during the Commission for the Treasury, my old Friend Sir F. W. forsook me, and joyned with the Lord *Cottington*, which put me to the exercise of a great deal of patience, &c.

September 2. Wednesday, I was in attendance upon the King at *Woodstock*, and went thence to *Cudsdon* to see the House which Dr. *John Bancroft*, then Lord Bishop of *Oxford*, had there built, to be a House for the Bishops of that See for ever, he having built that House at my perswasion.

September 3. Thursday, I went privately from the Bishop of *Oxford*'s House at *Cudsdon*, to St. *John*'s in *Oxford*, to see my Building there, and give some directions for the last finishing of it, and returned the same night, staying there not two hours.

September 23. I went to St. *Paul*'s to view the Building, and returned that night to *Croyden*.

September 29. the Earl of *Arundel* brought an Old Man out of *Shropshire*, he was this present *Michaelmas*-day shewed to the King and the Lords for a Man of 152, or 153 Years of Age.

October 26. Monday, This morning between Four and Five of the Clock, lying at *Hampton-Court*, I dreamed that I was going out in haste, and that when I came into my Outer-Chamber, there was my Servant *W. Pennell* in the same Riding-Suit which he had on that

April 9. The
Arch-bishop of
Canterbury's
Diary.

An. 1635. that day seven-night at *Hampton-Court* with me: me thoughts I wondered to see him, (for I left him sick at home) and asked him how he did; and what he made there? and he answered me, he came to receive my Blessing, and with that fell on his knees; and hereupon I laid my Hand on his Head, and prayed over him, and therewith awaked. When I was up, I told this to them in my Chamber, and added, that I should find *Pennell* dead or dying. My Coach came, and when I came home, I found him past Sense, and giving up the Ghost; so my Prayers (as they had frequently before) commended him to God.

November 22. Saturday, Charles Elector Palatine came to *Whitehall* to the King.

November 30. St. Andrew's day, Monday, Charles Prince-Elector Palatine, the King's Nephew, was with me at *Lambeth*, and at solemn Evening-prayer.

December 14. Monday, Charles Prince-Elector came suddenly upon me, and dined with me at *Lambeth*.

December 25. Christmas-day, Charles Prince-Elector received the Communion with the King at *Whitehall*; he kneeled a little beside on the Left-hand; he sat before the Communion on a Stool by the Wall, before the traverse, and had another Stool and a Cushion before him to kneel at.

December 28. Monday, Innocents-day, about Ten at night the Queen was delivered at *St. James's* of a Daughter, Princess *Elizabeth*, I Christened Her on *Saturday* following.

Jan. 2. Tuesday, February 2. Candlemas-day, my nearer care of *J. S.* was professed, and his promise to be guided by me, and absolutely settled on *Friday* after.

February 28. I Consecrated *Dr. Roger Manwaring* Bishop of *St. David's*.

March 6. Sunday, William Juxon, Lord Bishop of *London*, made Lord High-Treasurer of *England*; no Church-man had it since *Henry the 7th's* time: I pray God blefs him to carry it so, that the Church may have Honour, and the King and the State Service and Contentment by it: And now if the Church will not hold up themselves, under God I can do no more.

*Martis vicesimo
primo April
Anno undecimo
Caroli Regis.
M. Goad.*

An Information in the Star-Chamber against divers Persons of Quality, for residing in Town contrary to the King's Proclamation.

To the King's Most Excellent Majesty.

*Jo. Banks.
Ro. Shelton.
Edw. Littleton.
W. Ayloffe.
Bramston.
E. Herbert.*

Sir *John Banks* Kt. Informeth Your Majesty, Your Attorney-General, That whereas as well the late Sovereign Lady Queen *Elizabeth*, and the late Sovereign Lord King *James*, Your Majesties Father of Blessed Memory, by several Proclamations published throughout the Realm, did command, That Persons of Livelihood and Means should reside in their Countries, and not abide or sojourn in or about the City of *London*, and other Towns, for that hereby the

the Countries remained unserved; and Your Majesty did by Your Proclamation dated the Twentieth day of *June*, in the Eighth Year of Your Majesties Reign, publicly proclaim'd in all the Counties of Your Realm (amongst other things) declare, That Your Majesty having observed, that of late years a greater number of Nobility and Gentry, and abler sort of Your People, with their Families, have resorted to the Cities of *London* and *Westminster*, and Places adjoining, and there made their residence than in former times, contrary to the ancient usage of the *English* Nation, which hath occasioned divers inconveniences: for where by their residency and abiding in several Countries where their Means ariseth, they served Your Majesty in several Places according to their Degrees and Ranks in aid of Government, whereby, and by their House-keeping in those Parts, the Realm was defended, and the meaner sort of Your People were guided, directed, and relieved; but by their residency in the said Cities, and Parts adjoining, they have not employment, but live without doing any Service to Your Majesty, or Your People; a great part of their Money and Substance is drawn from the several Countries where that ariseth, and is spent in the City in excessive Apparel provided from Forreign Parts, to the enriching of other Nations, and unnecessary consumption of a great part of the Treasure of this Realm, and in other vain Delights and Expences, even to the wasting of their Estates, which is not issued into the Parts from whence it ariseth, nor are the People of them relieved therewith, or by their hospitality, nor yet set on work, as they might and would be, were it not for the absence of the principal Men out of their Countries, and the excessive use of Forreign Commodities.

By this occasion also, and of the great numbers of loose and idle People that follow them, and live in and about the said Cities, the disorders there grew so great, and the delinquents there became so numerous, as those places were not so easily governed by their ordinary Magistrates, as in former times; and the said Cities were not only at excessive charge in relieving a great number of those idle and loose People that grew to beggery, and became diseased and infirm, but also were made more subject to contagion and infection; and the Prices of all kind of Victuals both in the said Cities, and in divers other Places, from whence those Cities were served, were exceedingly increased, and the several Countries undefended; the poorer sort of Your Majesties People were unrelieved, and not guided and governed as they might be in case those Persons of Quality and respect resided among them. Your Majesty finding those inconveniences to arise from thence, and foreseeing that more would ensue if timely Remedy were not provided, did further, in and by Your said Proclamation, declare Your Highness's resolution, for the common Good of Your People, to use all good ways for preventing of those great evils; and observing that Your Noble Progenitors, Kings of this Realm, have used, when for the common profit of the Realm that was necessary, to command the People as well of the Clergy, as of all sorts of the Laity, to keep residence at their Dwellings in the several parts of the Realm, where, for defence and good safety thereof, was most necessary, and to restrain their departure, or changing their Habitation from thence under divers pains,

II Caroli.

1632.

An. 1635.

pains, upon the contemners of those commands, Your Majesty did theretofore, in and by Your said Proclamation, straitly charge and command Your Lords both Spiritual and Temporal, Your Lieutenants, and Deputy-Lieutenants of Counties, Your Majesties Justices assigned for conservation of the Peace, Baronets, Knights, Esquires, Gentlemen, and all Clerks having Benefices with Cure, or Prebends, or Dignities in Cathedral or Collegiate Churches, and all other Your Majesties Subjects of the several Parts of the Realm, that had Mansion-Houses, and Places of Residence in other Parts, and were not of Your Majesties Council, or bound to daily attendance on Your Highness, Your dearest Confort the Queen, or Your Children, that before the end of forty days next after the publishing of the said Proclamation, within Your City of *London*, they with their Families should depart from the Cities of *London* and *Westminster*, the Suburbs and Liberties thereof, and places adjoyning, and resort to their several Counties, where they usually reside, and there keep their Habitations and Hospitality, attend their Services, and be ready for the defence and guidance of those Parts, as their Callings, Degrees, and Abilities should extend, upon such pains as were to be inflicted upon those that should neglect the publick Service and Defence of the Realm, in contempt of Your Majesties Command; and that those as well thereby commanded to return to their several Countries, as those which were already there, should upon the same Pain continue the Residency of themselves and their Families there, and do their Duties and Services as aforesaid. And Your Majesty did further, in and by Your said Proclamation, declare, That it was Your Majesties firm resolution to withstand such great and growing evil as aforesaid, by all just ways, and by a constant severity towards the Offenders in that behalf; for which cause Your Majesty gave such timely warning, that none should hereafter presume to offend, nor put themselves to unnecessary charge in providing themselves to return in Winter to the said Cities and Places adjacent, but that they should conform themselves to Your Royal Commandment expressed in Your Highness's said Proclamation, as they tendered their Duties to Your Majesty, or the Good and Well-fare of their Countries and themselves; as by the said Proclamation, which the one and twentieth day of the same Month was publickly Proclaimed in Your said Cities of *London* and *Westminster*, and else-where, more at large appeareth.

Yet nevertheless so it is, may it please Your Most Excellent Majesty, That the Right Honourable *John* Earl of *Clare*, *Henry* Viscount *Newark*, *William* Viscount *Mounson*, *John* Lord *Mobun*, *Thomas* Viscount *Fitz-williams*, Lord *Tunbridge*, and *Henry* Lord *Stafford*, who hold, and long have holden, Places of Employment under Your Majesty in several Counties of this Realm; and Sir *Thomas Stiles* Knight and Baronet, Sir *Thomas Staples* Knight and Baronet, Sir *John Symonds*, Sir *James Stonehouse*, Sir *John Ayres*, Sir *Anthony Bruggs*, Sir *Peregrine Bartye*, Sir *Edmond Lenthall*, Sir *Ralph Gore*, Sir *Henry Hart*, Sir *Thomas Littleton*, Sir *Thomas Thynne* Knights, Sir *Humphry Foster* Baronet, Sir *Ralph Maddison* Knight, Sir *Gregory Norton* Knight and Baronet, Sir *Edward Payton*, Sir *Robert Harlowe*, Sir *John Telbye*, Sir *George Vane*, Sir *William Playter*,

Playter, Sir William Hewett, Sir John Savage, Sir William Moun-
son, Sir George Windham, Sir Francis Godolphin, Sir Walter De-
vereux, Sir Henry Bowser, Sir Francis Winson, Sir Henry Appleton,
Sir Thomas Pope, Sir John Suckling, Sir John Everett, Sir Matthew
Mince, Sir Walter Smith, Sir Francis Thornhill, Sir Michael Sands,
Sir Edward Bullock, Sir Thomas Fanshawe, Sir Thomas Cannon, Sir
Henry Compton, Sir Basil Brooke, Sir John Ogle, Sir Robert Napper,
alias Tundye, Sir Henry Atkin, Sir David Roberts, Sir Thomas Wal-
singham, Sir Thomas Harlowe, Sir Henry Gilford, Sir Theobald Gorge,
Sir Lenthropp Francke, Sir Fowke Grivell, Sir Thomas Gardiner, Sir
Peter Osborne, Sir Robert Needham, Knights; John Brownlowe, Tho-
mas Pitts, Thomas Luson, Richard Moyle, Edmond Pye, Richard Grif-
fith, George Lassels, and about a Hundred Esquires more, and divers
Countesses and Ladies of Quality, as the Countess of Oxford, Dame
Jane Lambert, Dame Ellenor Terrhet, &c. John Board, Edmond
Bradshawe, George Mustion, Simon Everye, William Tyrwell, Thomas
Sandye, John Denny, Thomas Wytheringe, Richard Bellamy, John
Fortescue, Valentine Castillian, Richard Price, John Pymme, William
Atkinson, James Jossie, Thomas Waller, James Greene, William
Quatkins, Thomas Vachill, Thomas Wroughton, John Cowper, Tho-
mas Mathewe, Edmond Nicholson, John George, James Wetherbone,
John Hambleton, Charles Care, Edward Bennet, Hugh Fulwood, John
Light, Francis Cawe, Thomas Blake, Thomas Gifford, Geoffrey Brown,
Richard Brent, Robert Fiste, Daniel Roper, William Mowre, George
Therley, Richard Foster, Thomas Winchfeild, Robert Hutton, Ri-
chard Vane, Thomas Arrundel, James Belfore, William Mathews,
Thomas Gotts, Sturley Bowes, Nicholas Stonehouse, Robert Lovell,
John Borndell, Edward Edwards, Roger North, John Nevill, Richard
Butler, Robert Brewster, Giles Foster, John Glover, Henry Johnson,
John Carrell, Edward Eldrington, Thomas Ellis, Humphry Oaker,
John Webb, Peter Honeywood, Robert Jason, Edward Rookewood,
James Barker, John Chamberlyn, Rich, John Pepes, John
Keeling, Adams, Charles Cockaine, George Bowers, Henry
Oxford, George Courtopp, Prosper Raynsford, Abraham Blackleich,
Hugh Awdley, John Griffith, Edmond Cotton, Robert Cutts, John
Abye, Richard White, John Pinchback, who serve in several Offices
and Places in sundry Counties of this Your Realm, and ought not to
desert their Countries or Places where their Revenue ariseth, and are
fit and able to do Your Majesty and the Realm several Services in
their Countries: And Countess of Oxon, Dame
Jane Lambert, Dame Ellenor Terret, Dame Ursula Barty, Dame
Christian Maveu, Dame Deborah Mowdye, Dame Alice Butler, Dame
Lucie, Dame Kinsmel, Dame Egerton,
Dame Anne Everett, Dame Ursula Bartye, Dame Jane Hannagh,
Dame Frances Manwood, Dame Wilford, Dame
Gardiner, Dame Mary Offley, Dame Mountague, Dame
Winter, Anne Cotton Widow, Grace Dennet, Philippa
Gill Widow, Margaret Cooke, Elizabeth Murrey, and divers others,
who still secretly remain, and abide within the said Cities of Lon-
don and Westminster, and the Suburbs thereof; whose Names,
when they shall be discovered, Your Majesties Attorney prayeth,
he may have liberty to insert into this Information: and none
of them are of Your Majesties Council or Servants, or Ser-
vants

An. 1635. wants to Your Dearest Confort, the Queen, or Your Children.

All which said Persons before-mentioned have divers Manors, Lands, Tenements, Hereditaments in sundry Counties of this Your Majesties Realm of *England*; and albeit all the said Parties are able at their pleasure to provide for themselves meet Places of habitation in other places, than the City of *London* and Places adjacent, and other Cities and Corporate Towns, and be able to keep House, and relieve and comfort poor needy People in several Parts; yet have all of them, being more led and guided by their own Wills, than any ways affected to yield obedience to Your Majesties Proclamation, unlawfully agreed together how, and in what manner to oppose, resist and withstand Your Majesties said Proclamation, and Royal Pleasure therein expressed; and have had several Meetings, and therein advised and consulted, how and in what manner they might effect the same, and have promised each other to aid, assist, and countenance each other in such their contempt and disobedience. And the said parties afore-named, according to their said Agreements, unlawfully, and contrary to the tenor of Your Majesties said Proclamation, and in contempt thereof, did severally and respectively stay, reside, and inhabit in the said Cities of *London* and *Westminster*, and in the Suburbs and Places near thereunto adjoining, with their Families, for the space of many Months after the publishing of the said Proclamation, and after the forty days therein mentioned were expired, though they had Houses and Places of Residence in several Counties of this Your Majesties Realm of *England*, as aforesaid, with Lands of good value, and were able in other places to provide Places of habitation where they might, and ought to reside for Service of Your Majesty, according to their Rank, and to guide, direct, and relieve the meaner sort of Your Majesties People, and to serve in the several Places and Offices, wherein they were trusted, (as by the said Proclamation they were enjoined to have done) and have made shew of leaving the said Cities and Places adjacent, and resorted into Cities and Corporate Towns abroad, and there made small stay, and returned again to the said Cities and Places adjoining: and by means of such their staying and residing in and about the said Cities of *London* and *Westminster*, and Suburbs thereof, those Places have been disordered and disturbed, and the Service of Your Majesty and Your People in the several Countries have been neglected and undone. And the said Parties afore-named, long after the said forty days were expired, being occasioned by some necessary Business and Employments of their own to repair unto their Houses, or other Places in several Counties in this Your Majesties Realm, did most unlawfully, and contrary to Your Majesties said Proclamation, and in contempt thereof, in further execution of such their unlawful Agreements, and in performance of such unlawful Promises as they had made the one to the other, as aforesaid, after such time as they had severally dispatched their own occasions in the Country, did contemptuously return again to Your Majesties said Cities of *London* and *Westminster*, and the Suburbs thereof, where they have ever since, and do still remain and dwell, with themselves and their Families, in high contempt of Your Majesty, and

and contrary to the tenor of the said Proclamation, and against the Laws; all which several unlawful Meetings and Agreements, Trespases, Contempts, and other the Offences and Misdemeanors aforesaid, are of a high nature, and deserve severe and exemplary punishment, and remain unpardoned. May it please Your Majesty to grant Your Majesties Writ of *Subpœna* to be directed to the said John Earl of Clare, Henry Viscount Newark, William Viscount Mounson, John Lord Mohun, Thomas Viscount Fitz-Williams, Lord Tunbridge, Henry Lord Stafford, Sir Thomas Stiles, Sir Thomas Staples, Sir John Symonds, Sir James Stonehouse, and to all the Persons before-named, commanding them, and every of them, at a certain day, and under a certain Pain therein to be limited, personally to be and appear before Your Majesty, and the Lords of Your Majesties Honourable Privy-Council, in Your Majesties High Court of *Star-Chamber*, then and there to answer the Premises, and to stand to and abide such further Order and Direction, as to Your Majesty and Your said Council shall be thought meet. And Your said Attorney shall pray for Your Majesties long and prosperous Reign over Us.

11 Caroli.

Examinatur & concordat cum Originali.

Hooker.

May it please your Grace,
WE have put our Brother the Bishop of Ross to the pains of a Journey, for aiding the Liturgy and Canons of the Church, and as we have found your Graces Favour both to our Church in General, and our selves in divers Particulars, for which we are your Graces Debtors, so we are to entreat the continuance thereof in this, and our common Affairs. We all wish a full Conformity in the Churches; but your Grace knoweth, that this must be the Work of Time. We have made, blessed be God, a further Progress, than all have here expected in many Years, by His Majesties Favour, and your Grace's Help; and hope still to go further, if it shall please God to continue your Grace in Health and Life, for which we pray continually. And so remitting all things to our Brothers Relation, we take our leave.

From my Lord of St. Andrews and other Bishops about the Scottish Liturgy and Canons.

Dated April 2. 1635.

Your Graces affectionate
 Brothers and Servants,

St. Andrews,
 Glasgow,
 J. B. of Murray,
 Ad. B. of Dunblane,
 Tho. Brechine.

An. 1635.

June 17. 1635.
The Lord
Keeper Coventry's Speech
to the Judges
in the Star-
Chamber.

Thomas Lord Coventry, Lord Keeper of the Great Seal of England, his Speech at the delivery of his Charge, as he received it from his Majesty, to all the Judges of England, Judges of Assize, in the Star-Chamber, June 17. 1635.

My Lords the Judges,

THE Term being done and ended, the Assizes near at hand, you are to divide your selves for your several Circuits. Circuits are for the service of the King, and the good of the people. They are the execution of the Kings Laws, and the administration of Justice. In the Term the people follow and seek after Justice, in the Circuit justice followeth and seeketh after the People. So gracious is the frame and constitution of the Kings Government, that twice a-year, at the least, Justice followeth the Subjects home to their own Doors, which as it is a great ease of the trouble, charge and travel of the Country: so it giveth the People a better knowledge of Justice, and the ends of it, that they may bless God and the King for the same. It hath been the custom, that before your Circuit you should receive such Directions, as the King, or his Council think seasonable to impart unto you for the Service of the King, and Weal of the People; in the declaring whereof, I shall say but little of the Just Acts you are to do between Party and Party, only that you do equal Right between Poor and Rich, the particulars are left unto your selves, as they happen in your Circuits: but since you are sent by the King to hear the causes of the people, it is his Majesties pleasure that you so hear and order, that they may have no cause to complain to His Majesty, either for denial, or for delay of Justice. Of the tryal of Capital Offenders I shall say as little; that part of Justice moveth in a frame, and if all Officers under you did their parts, you should walk in so streight a path, that you would find it very hard to tread awry; therefore you had need to heed them narrowly, lest they prevent Justice.

Look to the corruptions of the Sheriffs and their Deputies; the partiality of Jurors; the bearing and siding with men of Countenance and Power in their Country: when you meet with such, your proceedings ought to be severe and exemplary against them, otherwise Justice shall be overborn, howsoever you in your own Persons bear your selves with never so much uprightness. And because the time of Assizes is very short, and expireth in a few days, it is necessary, that you afford as much time as may be, unto those busineses that are most general, and most concern the publick. The Tryal of *Nisi prius*, and particular causes, they are in the number of those things that are not to be left undone; but those things that concern the general and publick good, you are to account them as the weightier matters of the Law, and therefore you are to take them into prime and chief care and cogitation. Now, among those I shall commend unto you, in the first place, the presenting and convicting of Recusants: for as it concerneth Religion, so it hath Relation to His Majesties profits, which are

two

two great Motives. To which you may add a third, because the King hath, many years since, assigned those Forfeitures to the publick defence.

2. In the next place, I do require you, that you make a strict inquiry after Depopulations and Inclosures; a crime of a crying nature, that barreth God of his Honour, and the King of His Subjects; Churches and Houses go down together. His Majesty knoweth, and taketh notice, that according to former directions given to you in this place, you have given it in charge unto the grand Inquests to inquire, but to little effect; and without doubt, the Free-holders of *England* do hate and detest them. Depopulation is an oppression of a high nature, and commonly done by the greatest Persons, that keep the Juries under and in awe; and that is the cause there are no more presented and brought in question: but howsoever your Charge and Inquiry, touching this point, hath not taken effect worthy His Majesties Care, and your Pains; yet His Majesty willeth, that you do not cease, but inquire on still: for it is His Resolution, against all opposition to make all men see, that he hath a care of this over-spreading evil, and of the means of his People; to have Churches and Towns demolished, and his People eaten up like Bread, to satisfy the greedy desires of a few, who do waste as profusely, as they do gather together unconscionably, and bring unto their Posterity that Wo, which is pronounced to those that lay House to House, and Field to Field, to dwell alone in the midst of the Earth.

3. The next thing that I shall mention to you is, the rectifying, and reforming of Ale-houses and Tipling-Houses; and those I account one of the greatest pests of the Kingdom. First, Therefore let none be enabled, either to set up, or continue without License. There are a kind of People that do take upon them Licenses, Recognizances, or Laws, or what you will; who have been a great deal the worse, because they see a great multitude tolerated, that have no License. And for the Licensed Ale-houses, let them be but a few, and in fit places; if they be in private Corners, and Ill-places, they are become the Dens of Thieves; they are the publick stages of Drunkards and disorder. In Market-Towns, or in great Places, or Roads, where Travellers come, they are necessary.

Next unto this, let those that be Licensed, be held strictly according to the Law. It hath been observed, and very truly, that in the Taverns, Inns, and Ale-houses in *England*, by the falshood of their measure, and unjust prices, they have drawn more from the Guest, than out of the sizes of Ale and Beer is exacted by the States in *Holland*. A strange thing! that People for a publick Work, for any thing that is Good, should be loth to part with any thing; and yet with open eyes to see themselves deceived by such base and lewd people.

Next unto this, let care be taken in the choice of Ale-house-keepers, that it be not appointed to be the Livelihood of a great Family; one or two is enough to draw Drink, and serve the People in an Ale-house; but if 6, 8, 10, or 12 must be maintained by Ale-house-keeping, it cannot choose but be an exceeding disorder, and the Family by this means is unfit for any other good works,

or

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or employments. I have not skill enough to understand all the inconveniences that come from this one ill-fountain, and my Memory will not contain what I have so many times observed of them my self; but your Lordships have a knowledge and experience of them, therefore I will leave them unto you. Only this, because in many places these swarm by the default of the Justices of Peace, that set up too many; and there are none (except your selves at the Assizes) all the year long can meet with this evil, but the Justices of the Peace: and if the Justices of Peace will not obey their charge herein, certifie their default, and Names, and I assure you, they shall be discharged. I once did discharge two Justices for setting up one Ale-house, and shall be glad to do the like, upon the like occasion.

4. In the next place I will commend unto you the punishment of Vagabonds and Wanderers, to rid the Ale-houses of such unruly Guests; it would make some way of amendment to those Ale-houses: and it cannot be denied but the Law hath appointed hands enow to do this work; the Constable, Headborough, Tithingmen, and the rest of the inferiour Officers, and Watchmen, who may do all with a particular Warrant from the Justices of the Peace: and the Justices of the Peace are bound to call them to an account, and punish them for their neglect. If this were done, and other Officers chosen as they ought to be (not people of little wealth, and as little understanding) but that they were elected out of the better sort of Yeomanry, and the Watches kept by able-men; I am assured these loose people that wander up and down would quickly be gone: therefore you may do well to let it be known in the Country, that the Lords of Leets, and those that have the Election of Constable and Officers, they are by the Law answerable for their Choice. There have been Precedents, that where an insufficient Coroner hath been chosen by a County, the whole County hath been Answerable to the King for the Coroner's fault; and if the Lords of Leets, and their Homagers, and those that make choice of the Constable and Officers, were sometimes awakened by some seizing of their Leets, or Fines, or *Quo Warranto*, I make no doubt but the Countries would be better served many years after, for some such service done. Therefore I could wish, that this were made known to the Country, that the Lords, and those that choose them were Answerable for their default.

5. Now for the bringing of loose people in order, the House of Correction had need to be looked unto, and be put in readiness, that those that are Idle may not want work; *Ducere Volentes, Trahere Nolentes*. And for the Houses of Correction (as it is in some Countries) it were convenient they were placed near the Gaol, that not only Idle persons, but that the Prisoners of the Gaol might be made to eat the labour of their own hands. This as it hath been formerly, so it is now commended by His Majesty to see it effected as soon as may be.

6. The binding of Apprentices is a thing fit to be pressed throughout all the Circuits. Opposition hath been made against it by some, though without any ground, or Law. Sometimes the Parents are not willing to leave their Children, though they

have

‘ have not meat to feed them at Home; sometimes the Parishio-
 ‘ ners not willing to give them Cloaths, and sometimes the Masters
 ‘ refuse them, and those that bind them are negligent: but all
 ‘ these must be over-ruled, and made to smart for their opposition.
 ‘ In a word, you are to call upon all to whom it belongeth, but
 ‘ especially the Justices of Peace, to see His Majesties Printed Or-
 ‘ ders be put in execution. You are to satisfie your selves what
 ‘ Justices of the Peace are diligent in it, and who neglect it, and so
 ‘ to certify to the Lords of the Council.

‘ 7. I have but one thing more to give you in charge, and it is
 ‘ a thing of great weight and importance. It concerneth the Ho-
 ‘ nour of His Majesty and the Kingdom, and the safety of both.
 ‘ Christendom is full of Wars, and there is nothing but rumors of
 ‘ Wars. What hath been done of late years abroad by Fire and
 ‘ Sword, it were a pity and grief to think of; yet we have had the
 ‘ goodness of God, and His Majesties Providence all this while,
 ‘ and have enjoyed a most happy Peace and Plenty. As it is a good
 ‘ Precept in Divinity, so it holdeth in Polity too ——— *Jam Proxi-*
 ‘ *mus Ardet*; which if we observed to defend our selves, it would
 ‘ be a warning to all Nations, and we should be the more assured
 ‘ to enjoy our Peace, if the Wars abroad do make us stand upon
 ‘ our Guard at home. Therefore no Question, it hath ever been ac-
 ‘ counted the greatest wisdom for a Nation to Arm, that they may
 ‘ not be inforced to fight; which is better than not to Arm, and
 ‘ be sure to Fight. The one is Providence, the other is Ne-
 ‘ cessity. Therefore His Majesty in these doubtful times, hath not
 ‘ only Commanded, that all the Land-Forces of the Kingdom should
 ‘ be set in Order and Readiness; but to set to Sea a Royal Fleet, at
 ‘ His Majesties great charge, but with the Assistance of the Ma-
 ‘ ritain-places of this Kingdom. The causes, occasions and times
 ‘ of War, with the preparation and ordering of them, is proper
 ‘ to the King; and dutiful obedience in such things doth best be-
 ‘ come the Subject; and yet His Majesty hath vouchsafed, even by
 ‘ his Writs, to declare enough to satisfie all well-minded men, and
 ‘ to express the clearness of His Princely Heart in aiming at the
 ‘ general good of His Kingdom. The Dominion of the Sea, as it is
 ‘ an ancient and undoubted right of the Crown of *England*, so it
 ‘ is the best security of the Land; for it is Impregnable, so long as
 ‘ the Sea is well-guarded: therefore out of all question, it is a
 ‘ thing of absolute necessity, that the guard of the Sea be exactly
 ‘ looked unto; and those Subjects, whose minds are most fixed
 ‘ upon the Honour of the King and Country, will with no pati-
 ‘ ence endure to think of it; that this Dominion of the Sea, which
 ‘ is so great an Honour, should be either lost or diminished: be-
 ‘ sides, for safeties sake, the Dominion of the Sea is to be kept, and
 ‘ the Sea guarded.

‘ The *Wooden-Walls* are the best Walls of this Kingdom; and if
 ‘ the Riches and Wealth of the Kingdom be respected, for that
 ‘ cause the Dominion of the Sea ought to be respected; for else
 ‘ what would become of our Wool, Lead and the like, the prices
 ‘ whereof would fall to nothing if others should be Masters of
 ‘ the Sea. There is a case in the Book of Affize, 43. which put-
 ‘ teth me in mind of certain men, that went down into the Coun-
 ‘ try,

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try, and carried a report, that no Wooll should pass over the Sea that year; upon this they all fell to so low Prices, that the men that carried the Report were Questioned and Fin'd. Now if a Report alone, and that a false one too, wrought such an effect upon the Wools of *England*, think what would be wrought by a real loss of the Dominion of the Sea in all our Commodities, if our Trade should be at the Command of other Princes and States. Therefore as His Majesty out of His Great Wisdom, hath found it expedient to set to Sea that Fleet, that is now upon the Sea; so His Majesty being engaged, both in his Honour, and the Honour of the Kingdom, he findeth it to be of absolute necessity to strengthen this with a greater strength, and more Shipping the next year. Therefore upon advice he hath resolved, that he will forthwith send forth new Writs for the preparation of a greater Fleet the next year; and that not only to the Maritime Towns, but to all the Kingdom besides: for since that all the Kingdom is interested, both in the honour, safety and profit, it is just and reasonable, that they should all put to their helping hands.

Now that which His Majesty requireth from you, and doth command is, That in your Charges at the Assizes, and in all places else, where opportunity is offered, you take an occasion to let the People know how careful and zealous His Majesty is to preserve his own Honour, this Kingdom, and the Dominion of the Sea, and to secure both Sea and Land by a powerful Fleet, that foreign Nations may see, that *England* is both able and ready to keep it self, and all its Rights. And you are to let them know how just it is, that His Majesty should require this for your defence, and with what Alacrity and Cheerfulness they ought, and are bound in Duty to contribute unto it; that foreign Nations may observe the Power and Readiness of this Kingdom, which will make them slow to contend with us, either by Sea or Land; and that will be the best way to confirm unto us a firm and sure Peace. This is the substance of all that which I received in Commandment from His Majesty. There are many things else that concern the publick; but your Judgments are well known in them. These are the particulars I had Command to mention unto you; so I will trouble you no farther, but leave them to your Grave Considerations.

July 21.

A restraint of
the King's
Subjects de-
parting out of
the Realm
without License.

Forasmuch as it is one of the Principal Duties of all the Kings Subjects to attend at all times, the Service and Defence of their King and Native Country, when they shall be thereunto required; and foreseeing what danger might ensue to this State, if People might at their pleasure pass or depart out of this Realm into foreign Parts: for prevention whereof, the King doth Command and forbid all his Subjects, that they, nor any of them, other than Soldiers, Mariners, Merchants and their Factors, and Apprentices, shall at any time, without the *King's License*, or of six of the Privy-Council, depart out of this Kingdom, or any the King's Dominions, into the Kingdom, or Country of any Foreign Prince, State or Potentate.

Whereas

WHereas at a Parliament held at *Westminster* the 9th of *February*, in the 21st year of King *James*, it was Enacted, That no Persons or Person, should from thenceforth prophanely Swear or Curse, under the penalties therein contained; We taking into Our Princely Consideration the great increase of those sins, which are more audaciously practised and frequently committed by loose and wicked persons; hath therefore for the better suppressing those odious sins, by Letters-Patents, dated the 21st of *July* last past, erected an Office for the receiving of the Forfeitures incurred by such Prophane Swearers and Cursers; and hath thereby appointed *Robert Lesley* Esquire, one of the Gentlemen of the King's Privy-Chamber; by himself and his Assigns, that he shall in every Parish within this Kingdom attend that Service and Office, for a certain number of years therein contained; and shall and may receive the Penalties appointed by the said Statute, from all Person and Persons offending against the Tenure of the said Act; and that the monies arising thereby shall be paid to the Bishops of the Diocesses, to be distributed among the Poor of the several Parishes. And all persons employed herein shall be exempted and freed from bearing any other Office, or Charge in the Parishes where he and the rest shall dwell.

11 *Caroli.*

July 26.
For the suppressing of
Prophane Cursing and Swearing.

TO this time there having been no certain or constant Intercourse between the Kingdoms of *England* and *Scotland*, His Majesty hath been pleased to Command his Servant *Thomas Witherings* Esquire, His Majesties Post-master of *England* for foreign Parts, to settle one *Running-Post*, or two, to run night and day between *Edenborough* in *Scotland*, and the City of *London*, to go thither and come back again in six days; and to take with them all such Letters as shall be directed to any Post-Town in the said Road, and the Posts to be placed in several places out of the Road, to run, and bring and carry out of the said Roads the Letters as there shall be occasion, and to pay two-pence for every single Letter under four-score Miles; and if one hundred and forty Miles, four-pence; and if above, then six-pence. The like rule the King is pleased to Order to be observed to *West-Chester*, *Holyhead*, and from thence to *Ireland*: and also to observe the like Rule from *London* to *Plimouth*, *Exeter*, and other places in that Road; the like for *Oxford*, *Bristol*, *Colchester*, *Norwich*, and other places. And the King doth Command, that no other Messenger, Foot-Post, or Foot-Posts shall take up, carry, receive or deliver any Letter, or Letters whatsoever, other than the Messengers appointed by the said *Thomas Witherings*; except Common known Carriers, or a particular Messenger to be sent on purpose with a Letter to a Friend.

July ult.
The King settles the Letter-Office of *England*, and *Scotland*.

An. 1635.

August 24.
The King declares his Royal Grace and Pleasure to confirm to his Subjects their *Defective Estates*, in their Lands and Possessions, by His Commission lately renewed and enlarged to that purpose.

WHereas for the good of the Subjects the King hath been graciously pleased to renew and enlarge his former Commission of Grace, and hath thereby Authorized the Lords, and others of His Privy-Council, and some of the Judges and Learned Council to Sell, Grant and Confirm to the People their Defective Estates, Possessions and Titles, being void by insufficient Grants, or By-Parents of Concealments; and notwithstanding the Subjects slackness in taking hold of that favour, yet the King, out of a desire to settle His Subjects in their Estates and Possessions, is once more pleased to make known these His Royal Intentions of favour to such as shall timely embrace the same, upon moderate Compositions, and that they repair to the King's Commissioners in *Fleetstreet* before *Hillary Term* next; and such as do neglect, the course of Law shall be taken against them, to reduce those Lands to the Crown again.

The Case of the Church-Wardens of *Beckington* in *Somersetshire*.

THE Church-Wardens of *Beckington* in *Somersetshire* were *Excommunicated* by the Bishop of *Bath* and *Wells*, for refusing to remove and Rail in the Communion-Table, and pull down the Seats that stood above at the *East-end* of the Chancel. They *appealed to the Arches*, and after much soliciting, procured from Sir *John Lamb*, Dean of the *Arches*, a Letter to the Bishop to *absolve* them for a certain time; which he did for a few Weeks, and afterwards *excommunicated* them *again*. The Church-Wardens *appealed* to the *Arches* the second time, with a Petition to the Arch-Bishop, and a certificate from the Parish, that their Communion-Table had stood time out of mind in the midst of the Chancel, being the most convenient place; and that *near Threescore years* ago the Pavement of the Chancel, whereon the Table stood, was new made and raised a foot above the rest of the Chancel-ground, and inclosed with a Decent Wainscot-Border, and none went in there-at but the Minister, and such as he required. Their Appeal was rejected, and they threatned with the *High-Commission*, and commanded to obey their *Diocesan*. After this they petition the King, but with no success; for it was suggested, that if those men had their Wills, many of the Parishes which had already conformed would fall back, and others would never come in. The Church-Wardens stood *excommunicated* a whole year, and afterward were taken, and cast into the *Common-Gaol*, where they lay a long time. Whence at length they were released by the Bishop, upon their publick Submission and Penance, performed in the Parish-Church of *Beckington* and two other Churches.

September 6.
The King declares for preventing the Abuses of Informers, Clerks and others in their Prosecutions upon the Laws and Statutes of this Realm.

WHereas for the more due execution of the Laws and Statutes of this Realm, and for the better reformation of the abuses of *Common-Informers*, in their unjust Prosecutions and Vexations of our Subjects; the King by His Letters-Patents under the Great-Seal, dated the 20th of *February*, 5 *Car. 1.* did confirm the Office of Receiver and *Collector of Fines and Forfeitures* due upon *penal Laws*, formerly erected by King *James*, in the 18th year of His Reign; and thereunto the King united and annexed the Surveying, Registring, Collection and Receipt of Fines and Forfeitures, for transgressing

transgressing the Common-Law of this Realm, and of all Recognizances thereupon grounded, which should be forfeited in any Courts of Justice and Judicature, and of all sums of Mony due or growing, by reason of any Information, Bill, Plaint, Suit, Action, Presentment, Composition, Verdict, Judgment, Execution, or other Proceeding Commenced by the King's Attorney-General, or by any common Informer against any Offender for Transgressing the Laws, since the 31st of Queen *Elizabeth*; except the Collecting of Fines and Forfeitures due, or to be due by any Sentence of our Court of *Star-Chamber*, or of the Court holden by the Lord President and Council in the Marches of *Wales*, and in the *North* part of this Kingdom, or in any Court Leet, &c. whereof the Collection was by any Letters Patents granted to any other Person before the 15th of *October*, in the 18th of King *James*.

And whereas the King hath by *Letters Patents*, Granted the said Office to *James Chambers* Doctor of Physick, and *Edward Brown*, Esquire, for term of their Lives, to be executed by themselves or their Deputies; but notwithstanding the several provisions made in the said Letters Patents, for preventing Fraud and Abuses, committed by the subtil practises of Common Informers, Combining with under Clerks, they have prosecuted the King's Subjects, for their private Gain: for preventing of which Abuses for time to come, the King doth Charge and Command, that the Directions following be observed, upon pain of the Kings high displeasure.

Which being very long, see at large in the Appendix.

THat in the Reign of King *James*, and since the King's access to the Crown, several Proclamations have been published for the restraint of excessive Carriages, to the destruction of the Highways; and yet by daily experience those great Abuses are still continued and increased to the publick Nuisance, and likely to hinder the general Commerce of People, and become unrepairable, without excessive charge and burden to the Country: The King therefore by the Advice of the Lords, and others of the Privy-Council doth Command, that no common Carriers or other Persons, do upon the Common High-way, go, or Travel with any Wagon, Cart, &c. whereon is, or shall be laid at once above two thousand weight, nor to use above five Horses, or above four Oxen and two Horses, or above six Oxen without Horses at any one time; and because such extraordinary Carriages have heretofore, by the opinion of the Judges, been held to be general Nuisances, the King doth Command all Judges and Justices diligently to inquire after these Offences.

November 1.
A Restraint of
Excessive
Carriages to
the destruction
of the High-
ways.

IN the month of *November*, Mr. *Samuel Ward*, a Minister in *Ipswich*, Preached against the common Bowing at the Name of *Jesus*, and against the King's Book of Sports; and further said, that the Church of *England* was ready to ring Changes in Religion, and the Gospel stood on tip-toe, as ready to be gone. For this he was censured in the High-Commission, and there suspended, enjoined publick Recantation, which he refusing, was committed to Prison, where he lay a long time.

An. 1635.

November 10.
1635.Star-Chamber.
Sir Anth. Pell
Plaintiff.
Sir James
Bagg & Alios
Defendants.

The Charge of the Bill is for a gross deceit and cosenage by Sir *James Bagg* of the Plaintiff, and in that of the abuse of the Name of the Lord Treasurer *Weston*.

THE Case was thus; Sir *Anthony Pell* being Surveyor and Keeper of His late Majesties Hawks, *Aug. 2 Car.* the King gave direction for the payment of 7000*l.* unto him, as due from His Majesty.

Quarto Car. this was unpaid, and to prove this the Plaintiff lent the King 3000*l.* more, and had an Order of the Council-Table for the payment of 4000*l.* part of his great debt upon the farm of the Customs, which was paid accordingly; and the 6000*l.* residue to be paid by levying of Tallies of the first monys that should come into the *Exchequer*, upon the imposition of *Coals*, benefit of *Soap*, *Recusancy*, or otherwise; failing of all these, notwithstanding his attendance on Sir *Richard Weston* Lord Treasurer, *12 October 5 Car.* he did Petition the King, acquainting him with the said Order, and that he had received no Payment or Assignment of the 6000*l.* His Majesty answered, That he found great reason in the Plaintiffs request, and commiserated his hard Estate, and referred the consideration thereof to the Lord Treasurer, to take the best and most speedy course which might stand with His Majesties other affairs for the Plaintiffs satisfaction, with which he acquaints the Lord Treasurer; That the other Defendant Sir *James Bagg* often resorting to the Lord Treasurer's House, and there meeting with the Plaintiff, subtilly insinuated himself into the Plaintiffs acquaintance, and told him that he had a great and inward relation with the said Lord Treasurer, and was a great negotiator of business which passed the Lord Treasurer's hand, and offered himself an Agent on the Plaintiffs behalf to the Lord Treasurer for procuring Assignments for the 6000*l.* and did scandalously pretend to the Plaintiff that there was no hope for him to obtain satisfaction for his 6000*l.* and damage for forbearance thereof, but by giving some reward to the Lord Treasurer; and did affirm to the Plaintiff that he had former experience thereof, and had laid many a thousand pound upon the said Lord Treasurer's Table, and under his Beds head for business of like nature; and told Sir *Anthony*, that if he would promise him the said Sir *James* 500*l.* on the sudden to supply the Lord Treasurer's present occasions, he would forthwith procure from the Lord Treasurer good Assignment to be made for the 6000*l.* and damage for forbearance, and all other monys due from His Majesty to the Plaintiff for arrear of Wages, which amounted to above 12000*l.* Whereupon in *December 8 Car.* he procured a Friend to lend 500*l.* for the said Lord Treasurer's use, as Sir *James* pretended, and took a bond of Sir *James* and one *Harris* to pay the same at six months; notwithstanding this promise the Plaintiff attended above a year, and nothing could be done. Then Sir *James Bagg* by confederacy with the other three Defendants, did in *November 9 Car.* affirm to the Plaintiff, that if he would give 2000*l.* more to the Lord Treasurer for a gratuity (whereby to draw 2000*l.* from the Plaintiff, and then to share it among themselves) he would procure the Lord Treasurer to make Assignments before St. *Thomas* day next following for all the Plaintiffs Debts, Arrearages of

of Wages and Damages; whereupon 4 Decemb. 500 l. was borrowed at Interest of Sir William Acton, and 500 l. of others, and Sir James Bagg and Sir Richard Tichburn were bound for the payment of this 1000 l. 21 Decemb.

11 Caroli.

The 21st of December came; then Sir James affirmed to the Plaintiff, that the business was dispatched and Assignments made: but yet the Lord Treasurer would have the other 1000 l. in hand before the Plaintiff should have the Assignments, and ult. January he should not fail of them. The Plaintiff upon the engagement of his whole estate procured 1000 l. more, and also upon Sir James Bagg and Mr. Gibbons's Bond to repay the same 30 January; which Bond to Sir James and Gibbons was in trust to the Plaintiff, that upon such Assignments to be made 30 January, both his last Bond and his other Bond to Sir Richard Tichburn should be delivered up to be cancelled: besides this 2000 l. delivered to the hands of Sir James for the Lord Treasurer's use, as he falsely pretended, he caused the Plaintiff to undertake to pay Owen Brett and Charles Escourt 760 l. which Sir James owed to them, which was to be a reward for his own pains for procuring the Plaintiff his Assignments, he still affirming that the 2000 l. was paid to the Lord Treasurer for a gratuity.

The Defendant Sir James Bagg in his Answer denied the charge of the Bill to be true in any part of it, and thereupon the Plaintiff and Defendant went to Issue, and examined Witness, and the Cause was brought to Hearing, which held the Court several days; and this day was appointed for the Lords to give their Judgment and Opinion in the Cause, the debate and consideration whereof, and the many Speeches made by the Lords, held the Court sitting from nine in the Morning till four in the Afternoon; and then the Court was divided equally in Judgment, there being Nine of the Court for Sir Anthony Pell, and Nine for Sir James Bagg. The division was in manner following.

Nov. 10. 1635.
Sir James Bagg
his Answer.

- | | | | |
|----------------------------|------------------|----------------------------|------------------|
| 1. Lord Cottington, | <i>pro Bagg.</i> | 10. Lord of Carlile, | <i>pro Bagg.</i> |
| 2. Chief-Justice Finch, | <i>pro Pell.</i> | 11. Lord of Dorcett, | <i>pro Bagg.</i> |
| 3. Chief-Justice Bramston, | <i>pro Pell.</i> | 12. Lord Marshall, | <i>pro Bagg.</i> |
| 4. Secretary Windebanck, | <i>pro Bagg.</i> | 13. Lord of Lindsey, | <i>pro Pell.</i> |
| 5. Secretary Cook, | <i>pro Pell.</i> | 14. Duke of Lenox, | <i>pro Bagg.</i> |
| 6. Sir Henry Vane, | <i>pro Pell.</i> | 15. Lord Privy-Seal, | <i>pro Bagg.</i> |
| 7. Bishop of London, | <i>pro Bagg.</i> | 16. Arch-Bishop of York, | <i>pro Bagg.</i> |
| 8. Lord Barret, | <i>pro Pell.</i> | 17. Arch-B. of Canterbury, | <i>pro Pell.</i> |
| 9. Lord of Holland, | <i>pro Pell.</i> | 18. Lord Keeper, | <i>pro Pell.</i> |

It was at this time discoursed by the Auditors then present in the Court, that the Speeches then made, were rather *pro Amico*, than *pro Quer' aut Deff.*

AT the hearing of this Cause the Queen was present in a Room that had a Window looked into the Court, she came in favour of Sir James Bagg, as was conceived.

Memorandum, That Mr. Arthur the Register, before he had drawn up the Decretal-Sentence received a Warrant under the King's hand to forbear Entering the Censure of the Court in this Cause,

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Caufe, as regularly His Majesty might do by the Rules of this Court, for Informations in the *Star-Chamber* are directed to the King's Majesty himself; and accordingly the Decretal Order was ftopt from being Entred: But how the Matter was compofed afterwards we know not.

It is to be obferved as another Rule in that Court, that if the Court be equal in Voices, the Lord Keeper hath the Cafting-voice, in like manner as the Speaker hath in the Houfe of Commons, who being in his Judgment for Sir *Anthony Pell*, the fame was to have been Decreed, and entred accordingly for *Pell*.

It would be too tedious to the Reader to have all the Harangues and Speeches made this day fet down at large, and the Repetitions upon Repetitions, by fome Lords, of what others did fpeak, would take up time to repeat; we omit them therefore at large, only to fatisfie the Readers curiofity we infer thefe two.

Lord Chief Juftice Finch his Censure.

Sir <i>Anthony Pell</i> Plt ^r .	}	Sir <i>James Bagg</i> , Sir <i>Richard Tichborne</i> , <i>William Lake</i> , and <i>Gibbons</i> ,	}	Defendants.
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My Lords,

THe Charge of the Bill is for a grofs deceit and cofenage by Sir *James Bagg* of the Plaintiff, and in that the abufe of the Name of an Honourable and Great Lord. Take thefe two Charges afunder, or feverally, there is not one of them but of great weight and confequence: and put them both together, and it is of as great a weight as any Caufe in this Court. Take them feverally, I will not fay that every cofenage or deceit is fit for this Court: But if a fraud or cofenage be accompanied with a publick inconvenience, or reflecting upon the Juftice of the King, it hath ever been held fit for this Court to take notice of it.

My Lords,

In Matter of Bargain and Contract between Man and Man, if he will make his fraudulent Conveyance, he hath his Remedy at Law and in Equity, and yet of late many Prefidents your Lordships have made, becaufe it tendeth to the publick Damage of the Common-Wealth; and in many other Cafes I hold this Bill, as it is laid, to be of danger and confequence, not only in regard of the Publick, but of the Reflection upon the King. For the Publick, there is nothing more dangerous, or of lefs comfort to the Common-Wealth, than when there fhall be Panders and Brokers about Judges, for the Adminiftration of Juftice.

My

My Lords,

For my part, let him be a Minister of Justice, or of the King's Revenues, that shall have any Servant or Familiar, who will take upon them, in the name of their Master, under shew of carrying on their Business, to take a Reward, but for the procuring of just and due Debts: My Lords, I shall ever hold it to be of that danger and consequence, that I had rather see both punished, than one to escape.

My Lords,

And for that part which concerneth my Lord Treasurer, it is true, I will not say if that had been the sole Charge of the Bill, I would have held Sir *Anthony Pell* a fit Party to complain in this, or to be the Judge of this, or to manage it: But I shall leave that to be followed in such course as the King's Attorney shall direct.

And where in this Case, or any other Case it shall be accompanied with any deceit to the Party, that will enable any private Man to be a fit Complainant in this Court; therefore for the scandal, which I hold of a great and eminent nature, if it had been the single Charge of the Bill, I should have given my voice to have thrown it out; but as the Charge of this Bill is laid, it is a gross cosenage of the Plaintiff. This is drawn in by an aspersion upon the great Lord; and in this Case I cannot but hold Sir *Anthony Pell* to be a fit Person to complain in this Court, and to mingle that with the scandal upon my Lord: It was therefore wisely done of the Defendants to wage their demurrer. My Lords, in this Case I do find the Parties interested are the Plaintiff and Four Defendants; but it is true, there is another interested in this Cause, and that is the Honour of a great Lord, who as he did bear an Office of great Trust, so he had great Trust reposed in him. And I do not blame my Lord of *Portland*, that he is eager in vindicating the Honour of his Father, which hath descended unto him, and to discover that this Bill was put in as a Cloud to hang over his Father. I shall, as my Lord that last spoke, leave him freely to take his course, be it against whom he will.

In truth, my Lords, I do remember what that great Lord did here in Court earnestly move your Lordships, that this Cause might receive all the expedition that could be, that this Cloud might not hang over him, that when it came to a hearing, to repair him by some exemplary Sentence. This I know your Lordships do remember, and will be as ready to do for him, as if himself was living.

For, my Lords, in this Cause I must deal clearly, that I hold it little better than a *non liquet*, either to be punished by some exemplary Sentence upon the Plaintiff, or Defendants, or some of them, let it light where it will: For, my Lord's Honour all this while having been a Defendant in the Hearing of the Cause, is now justly, upon the Hearing, become Plaintiff. The Bill layeth it plainly to be a scandalous aspersion cast upon my Lord Treasurer by Sir *James Bagg*, but no part of the Bill doth trench upon my Lord Treasurer; so that the Honour of that great Lord, instead of a Defendant, is now worthily before your Lordships a Plaintiff, and requireth as much

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much vindication, which must be by sentencing the Plaintiff or Defendants, for a foul and scandalous Libel.

My Lords,

In this Cause I must say something for a general delivery of my self to your Lordships, before I descend to the particular Parts of my Sentence.

Under favour, I hold it a great error, that any should think, that in every Cause in this Court, a Man must for every Particular, or Phrase that doth countenance to prove the Bill, have two Witnesses. If one be charged with oppression, you do never condemn without two Witnesses.

I conceive witness in the same, though but *singularis Testis* shall serve.

For to say, that Sir *James Bagg* did utter these and these words, every Phrase in this is not to be expected to be proved by two Witnesses, by the course of the Court. In any Case it is an error to think, that two Witnesses are of necessity, for one Witness and Circumstances, (as others do aver) amount to a further Witness, to draw on your Lordships to your Sentence: But I do hold in this Case, there will fall upon some of the Defendants a full Proof upon two Witnesses.

For the Defendant, Sir *Richard Tichburn*, near in Blood to the late Lord Treasurer, I do hold him a Man of worth, and I am glad I do find him so. And for my part, if the course of the Court will allow him remedy here, I shall willingly condescend; but however, I shall desire that there may be mention made of his clearness.

For Mr. *Gibbins*, I find him clear in this Case, and so I leave him.

For Mr. *Lake*, I find some touches of him, but not such as shall any ways move me to a Sentence. Mr. *Lake* did direct the making of the Petition; I clear him.

My Lords,

For Mr. *James Bagg*, I should be as glad to acquit him as any of the rest, but I must deal clearly. I cannot, I will not say, that Sir *James Bagg* is guilty of every Particular in the Bill. I do wonder to find so much in a Case of this nature; I do not think it necessary that every Particular in the Bill be proved; Circumstances may perhaps be added by Council, put in to draw out interrogation of the Party to make the Truth appear: And yet I must needs say, that of some words in the Bill there is no proof made. As that Sir *James Bagg* should say, *He had laid many a Thousand Pounds under my Lord Treasurer's Pillow for Business in that kind*; for which I should sentence him.

My Lords, In this Case that doth concern *Bagg*, it is very hard to divide the oppression severally from the scandal on my Lord Treasurer. I cannot make any thing of the Cause and take it all afunder.

The first thing I begin withal, is the Particulars of the Money.
2. the 500 *l.* borrowed of Sir *William Acton* Dec. 4. 1633. I find it is proved the Plaintiff did not intend to borrow it for himself, but for

for Sir *James Bagg*; I find that Sir *James* said, the helping him to this Money would be a means to help him to the Assignments. Sir *James Bagg* said it would do the Plaintiff a curtesie. If Sir *James* had done no more, but drawn a Man to lend him Money for such a dispatch, I would have held it a Crime fit for the Sentence. *Hem, hem, hem, hem, Leave that fashion*, (meaning of *heming*) I only speak of this to this purpose, to shew how this Money was borrowed, and that the application of borrowing it, was in relation to the Assignments. The Money was borrowed 4 Dec. to be paid the 21st of December; so it was but a borrow for seventeen days. And if it were Sir *James Bagg's* own Money, why did he tell him, *Pell* should be his Pay-master. When 21 December came, *Bagg* did desire continuance of the Money till the latter end of January, and in that time he would effect his business.

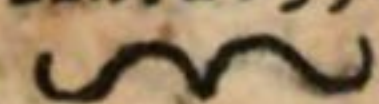
Next Sum was the 500 l. borrowed of Mr. *Herne*, of which the Plaintiff was never possessed; it was delivered to Sir *James Bagg's* Man, and this was payable long after the time of the Assignments: Their Sum is 300 l. in Dec. 21. upon a Letter 17 of Dec. Sir *Anthony Pell*, *I pray you send me 500 l. to my Lodging*. It seems he had the Plaintiff in a String. It is objected by Sir *James Bagg*, the Plaintiff was so careful of good Security, that he would not part with the Money, unless Mr. *Escourt* would be bound, that Mr. *Gibbins* should Seal. If never so good Security, if they were in his hands, how might he have handled Sir *Anthony*.

When Sir *James* was that night at the *King's-Head*, and saw the Money did not come; saith one Witness, Sir *James* said He (meaning the Lord Treasurer) could not sleep; he said also at that time, *If it were not delivered, the Plaintiff's Business would be dashed, and fall more backward than ever it was, the Plaintiff would be undone it staid so long*.

Your Lordships finding this Deposition not to agree, appointed *Marsh* to be heard, as it was in the Case between *Vaughan* and *Vaughan*, and sent for the Witness hither, who did explain the Deposition, and your Lordships gave credit to that Explanation; so for *Marsh*, for my part I must deal clearly, I shall take his Explanation according to the Rules of this Court, to be clear and express. that he said, *My Lord Treasurer could not sleep that night*: yet not to forget Mr. *Examiner* by the way, I find that he hath committed as great an abuse, as could be put on the Court. I find many Depositions very obscurely set down; for Sir *William Acton's* Deposition, and his variation afterwards, adds little credit to his Person. I find cunning enough in the *Examiner*, to excuse the entertaining of Sir *James Bagg* at a Tavern. I do not forget his threatening of *Marsh* about his Explanation, *That my Lord Treasurer could not sleep*. I cannot in my Conscience be satisfied of his carriage in this Cause, I shall never hold him a person fit to bring things to a clear Judgement before your Lordships.

When this 100 l. came at last, and he had put it up: *Come let us make haste to Wallingford-house, for I must pay it away presently, and if it had not come, the Plaintiff's business had been lost*. So I see still, if he might not have the Money when he would, and how he pleased, your Business would be undone.

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For the 500 *l.* of *Harries*, what was between *Bagg* and *Harries*, I know not; it may be possible, that *Pell* might help *Bagg* to this for *Harries's* Good and his own; but this was lent at the Plaintiff's instance, and said he would not have lent it, but to be a means to help the Plaintiff to his Assignments.

This was but a Mask that Sir *James* put upon the business, to draw him up and down with a hook in his Nose which way he would.

For the 700 *l.* owing to *Owen Brett*, it was very true that *Pell* was not ingaged for this; for I remember the Reason why he put him off, for perhaps he might come short of it.

Thus for the Particulars I have run through. There are two other things untouched; I am very tender to enter into these things that concern the Revenue of the Kingdom; but coming necessarily before your Lordships in Judgment, I cannot but take notice of the 7000 *l.* that it should be cut off by the agreement of Sir *Anthony Pell*, I find that is so by His Majesties Letter *omni exceptione*; and that my Lord Treasurer did testifie that it was so: Therefore, my Lords, to enter into the consideration or discussion of that, I will not; but this, my Lords, I will say, that in the Books I find no proof it was Sir *Anthony Pell's* agreement: If I did, I hope it not material.

It is apparent by Sir *Robert Pye's* Certificate, that 13000 *l.* was due to him; and I presume that Man is of so great worth, that I think he looked narrowly unto it, before he would make any Certificate; but to say the Debt was full so much, I dare not, but leave it to those to whom it doth belong under the King to do it.

It is true, I find it testified likewise, that 3000 *l.* was to be advanced for the King's Service: Whether Sir *James Bagg* informed my Lord thus, or he spoke with *Pell*, I know not; but for *Bagg's* advancing of 2000 *l.* truly my Lord I must deal clearly, whether he did or not it is not material; but I find if he did, it could not be in respect of *Pell's* breaking with my Lord Treasurer, and failing to perform; for this Bill under my Lord Treasurer's Hand of the Receipt of *Bagg's* 2000 *l.* was 9 July. And Mr. *Lake* writ a Letter to Mr. *Bond* 15 July, to keep Sir *Anthony Pell* to 3000 *l.* and then the Assignments were not Cancelled. But would Sir *James Bagg* suffer poor Sir *Anthony Pell* to be undone for the want of a Thousand Pounds? for *Bagg* had 2000 *l.* in his Hands of his, and for 1000 *l.* more he might have been able to have advanced 3000 *l.* to get the Assignments. Suppose *Pell* was but his Broker, to take up Money for him, would *Bagg* suffer the Plaintiff's Business to perish, or his Assignments to go back in such a strait? I must needs in my own Conscience say, it was one of the hardest passages in the Cause, and I do wonder that Sir *James Bagg*, who hath been so careful to prove every thing that he is wanting as to the Privy-Seal; my Lords, it is objected that there is no proof of a Reward, I should hold *Bagg* a Fool if Sir *Anthony Pell* should prove a Contract. And for the delay, I shall not trouble your Lordships, you have seen his many Letters; but I wonder Sir *James Bagg* would be so zealous to neglect the King's Service of special Trust, and attend here seven Months to effect and dispatch this business for the Plaintiff, and all this

this for nothing. And when he had been seven Months, and brought the business to an effect for the changing the 2000 l. he had but in the name (meaning to say it was *Pells* 2000 l. and not his) to make this poor Gentleman lose all. I cannot in my Conscience let this pass, the very Act of the managing of the business doth much reflect upon the Justice of the King, who gave a most Gracious Answer to Sir *Anthony's* Petition, in saying *He commiserated his Case*, and gave special direction for the speedy payment of his Monies. And yet by *Bagg's* deceit and cosenage, I pray God no Man have occasion to say that it is an Epidemick Disease: It hath been said, (meaning my Lord *Cottington*) suppose he had the Money, is it a crime, if a Man undertake to effect a Business for another, will not the Court of Justice allow him for his pains? For my part, I will be none of those Judges to give my opinion so; and I think if he come into *Chancery*, he will have but small comfort.

Now my Lords I will come to the Point of Scandal.

The first Proof for this, that this was with a Judgment, (saith *Baxter*) *He must give a Reward to my Lord Treasurer, for he had experience of it.* This cometh not very short of the Scandal, of *laying many a Thousand under my Lords Pillow.* The substance of the Proof cometh close to it; and though *Baxter* be *Singularis Testis*, yet I shall join him with others. I shall in the next place observe all the cunning expressions of the Defendants: *He could not sleep that night, he must to Wallingford-house, the Business will be undone, and go more backward than ever.* He that hath Wit, and knoweth how to carry himself, to put such odious reflections upon my Lord Treasurer, deserves to be severely punished. I am satisfied in my Conscience he did this cunningly, to make the Plaintiff believe my Lord Treasurer was to have it: Then (my Lords) laying all these together, and that of *Owen Brett*, it is apparent from him and the other Witnesses. I find none of them discredited, though it is a dangerous Case; and I do not know how any Cause of the King may perish if such a gap be opened, as never to take exception to a Witness, but just at the hearing to blow upon them, (meaning by Sir *James's* Council) and to say *they were Serving-men or Foot-men*; who but Servants can best tell of any Passages between their Master and others? I do take them to be upright and good Witnesses; he that sweareth Sir *James* took that Execration upon him (meaning God damn me) *that he was never a Penny better for his Money, my Lord Treasurer had it all.* Add this to *Marsh*, *that my Lord Treasurer could not sleep till he had the Money:* And that of *Owen Brett*, it will add a little Grain to the Ballance, whom I do find no ways disparaged. I do find it confirmed by *Turner*, that *Bagg* and *Lake* told *Jones*, (as *Jones* said) that My Lord Treasurer had the Money, and so *Jones* spared not to tell them his mind; and this spoken from a Man that was in a Consumption, to another, I do crave pardon if I do not altogether decline this.

I do hold Sir *Anthony Pell* in this Cause so far from having an Imposition of Fine *pro falso clamore* or *non liquet*, as that I conceive he hath just cause for this Bill, and to hold Sir *James Bagg* guilty in

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this Cause foully. I do adjudge him to pay 5000*l.* to the King, and Imprisonment during the King's Pleasure, and that in the *Tower*; and for the Offices which he doth hold, Two of great Trust and Weight about the King, truly, my Lords, I know the King doth understand the worth and value of his Servants, as well as ever any King in Christendom did; I will not take upon me the boldness to displace a Servant of the King's, or take him from his Service, but in all humility shall offer my advice to His Majesty, that I do not hold Sir *James* a fit Man to be trusted in a Place of that Importance, or to meddle with any Actions of the King, in which how he hath carried himself I know not; I shall leave your Lordships to consider of the condition of the Treasury.

I can do no less than adjudge *Bagg* to repay the 2000*l.* which is not yet paid, and for which the Plaintiff is engaged. I do find 500*l.* paid to *Acton*, and since the Bill came in or about that time; and I do adjudge him to pay to the Plaintiff for Damages Fifteen Hundred Pounds.

Some Notes of my Lord of Canterbury's Censure.

My Lords,

THIS is a Cause of great danger, I shall be as short as I can, (before I speak of the Defendant) I shall speak of the great Minister of State. If the Court think fit to leave it to my Lord of *Portland* to vindicate his Fathers Honour, I shall do so to. I do remember what both my Lord Chief-Justices have said, whether this Charge can be severed from the Scandal or not? whether a necessity to name the Lord Treasurer or not? I do conceive it to be unavoidable. If a necessity in using his name, then what fault in Sir *Anthony Pell*? If no necessity, I must condemn *Bagg* for being in a far greater fault, that by his open mouth so much vilified the Honour of the Name of my Lord Treasurer. I descend to the delivery of my Judgment clearly; and am of opinion that my Lord Treasurer's Honour standeth right in this Court, there being nothing by way of Proof or aspersion that can fasten upon him. If any thing, it must arise from the Plaintiff, or from the Defendants. And I shall be as ready as any Man to protect the Honour of that great Lord, be it against *Pell* or *Bagg*, or whom-else soever. But (*My Lords*) if it be a fault in Sir *Anthony Pell* for the spreading of this, the fault must light upon Sir *James Bagg*, for he gave the occasion of all these Reports.

My Lords,

Having, as far as lyeth in me, done the Duty I owe to the Dead, whom I hold to be clear in all, I shall fall upon the Particulars. First, for the Examiner, I never knew so many gross abuses in any Cause by an Examiner, as in this. If this Course be held, any Cause of the Kings may be overthrown. Since I had the honour to sit in this Court, never such gross abuses were committed by an Examiner. That Order may be taken with this base Examiner, I hold

hold him to be the most unworthy fellow, and a Cut-throat of any Man's Cause. II Caroli.

For Sir *Richard Tichburne*, I hold him innocent from any aspersions; but I can give no reparation. What if Five or Six Defendants, and only Proof be brought against them, One or Two, shall this fall foul upon the Plaintiff for want of Proof?

For the Plaintiffs Debt, I shall not say any thing, nor think it a Crime, that *Pell* was delayed in the payment of his Money; for the King hath a great many very great publick and important occasions, that he cannot pay all upon demand: And withal considering that the original Debt was but 7000 *l.* and it suddenly grew to above 13000 *l.* therefore the Lord Treasurer had need to look about him. God forbid, that upon main occasions, when the King promiseth a Suit (perhaps directly) of so much Money, and is not presently paid, that the King must pay Interest for this; this is no fair usage of the King.

The thing that troubleth me is this, of the Attendants on the Lord Treasurer. If the Lord Treasurer have a near Kinsman, or Secretary, or any other imployed for him, if those Men shall be corrupt, or do those Acts which shall make the World believe it is so, it shall be as much as if they were really guilty. For by this means the People will run on with an Opinion of Bribery and Corruption: They cannot have it out of this great Man's Hand, but they must go that way of Bribery to the Secretary for it. It shall not only bring great Men into despite, who perhaps never heard of it; but Men when they cannot have their Money without going this way, care not what they do.

Because he nameth the great Officer in the Bill, is it a scandal? must this be a Terror to any Man for doing the King's Service? Oh, but there is meddling with the King's Revenue! What hath Sir *Anthony Pell* to do with it? If there be but a possibility of fraud, shall the King have no Court of Justice to do him right? If it come to this pass, that no abuse concerning the Revenue must be questioned, the King shall never know what the Escheat is.

Here are four Defendants.

For Sir *Richard Tichburne*, the Lord Treasurer had no dishonour by him; a Gentleman of an ancient Family, and very worthy as any Man: therefore I shall concur, that the Sentence may be drawn up with a fair Mention of his manifest Innocency throughout the Cause.

For the Second Defendant, Mr. *Gibbins*, I do clear him.

For the Third Defendant, his Secretary Mr. *Lake*, I am very sorry to meet him here upon this occasion, not that I shall Censure him, but yet somewhat sticketh with me, and that is his Letter to Mr. *Bond*, that upon his Faith and Credit he had Assignments of 6000 *l.* in keeping for the Plaintiff. Should he be so adventurous as to write so without his Lord's privity? It troubleth me the more, partly for the Proof of it, because there are Six days between Sir *James Bagg's* Advancement of 2000 *l.* and Mr. *Lake's* Letter to *Bond* to help Sir

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Anthony to 3000 *l.* therefore a fraud is contrived in some kind : Yet I shall acquit Mr. *Lake*, though I cannot think so well of him as I have done.

My Lords,

Now as for Sir *James Bagg*, I do not stand upon it, whether Sir *Anthony Pell* is damnified in this Business, yea or no? the Question is, what fraudulent Practices here are by Sir *James Bagg*? And if there be but an Intention to do the same, I hold him as guilty as if he had done it. Joyn this together with his using of my Lord Treasurer's Name to lend these Monies, that so he might be inticed by that meerly to get the Assignments; I do hold this Practice to be criminal in this Court.

The Proof is, That he had Experience in Businesses of this nature; he was to have but Seven Hundred Pounds for his pains. He must to *Wallingford-house*: though in answer to this it was wittily observed by Sir *James Bagg*'s Council, this Construction, (*sensu diviso, sensu composito*) that he must pay the Money, and then presently to *Wallingford-house* and pay the Money there.

If Two Witnesses not concurring in Time and Place, yet if they concur in proving the Crime, they are of force to me, they all come home to this Plot and Practice. I should be of opinion with my Lord of *London* if these things were several.

But consider the Shooe-horne they draw on by the Name of the Lord Treasurer, and the Plot will appear.

I find this Money pretended to be for my Lord Treasurer, though it was never paid back again, nor ever tendred; and yet what a glorious defence at Bar was offered, that *Bagg* would not pay it till the Bill came in. For why? because that the World should not take notice, that he was afraid of the Bill. This is but a gloss and weakning of himself. All the World may see, if it had not been for the Bill, Sir *Anthony Pell* should never have had his Money. It is even as if one fall upon another in the High-way, and they rob him, and make him enter into Bond, that he will not question him hereafter; and then others come and see them, then he that robbed him answers, Here is your Money, I did but borrow it. I conceive the getting of the Money by *Bagg* from *Pell* as bad, as if he had gone away with the Two Thousand and Five Hundred Pounds.

I agree in one thing with my Lord *Finch*, That *Bagg* was a most unnatural Man, that had drawn Two Thousand Five Hundred Pounds for the use of himself and his Friends, from the Plaintiff: And whereas Sir *Anthony* was in a strait how to advance Three Thousand Pounds, that he should be so hard-hearted, (that Two Thousand Five Hundred Pounds being in his Hands) as not to help him at such a time, I would have Sentenced him for this unnatural part alone: Poor Sir *Anthony* must suffer all this, while it is likely *Bagg* would never have been gull'd in a Business. He was an Ingenious Man, Sir *Anthony* was a single plain Man.

If *Bagg* had put this Bill in, I should have conceived the worst of it; but I shall never believe poor Sir *Anthony* had in him that malice, as if *Bagg* had put it in: For his Council to take Exceptions against Witnesses at the Hearing, is of dangerous consequence; any Cause of the King's may be so spoiled. They say one of Sir

Anthony's

Anthony's witnesses was but seventeen years of age; if it were so, yet he was of age enough to tell and receive mony. They except against them because they are Sir *Anthony's* Servants. Who are so proper to be Witnesses as his Men? Why is here no exceptions taken to Sir *James Bagg's* Witnesses? for he had two Servants sworn as well as Sir *Anthony*.

For Mr. *Escourt*, they say he was then present, and heard no such words as *Marsh* sweareth; that might be true, and he not hear, for they might be spoke and not in his hearing. What if *Pell* did fail in the proof of his Bill, not only in the matter but in the manner?

I will not look upon *Pell*, but upon the Publick: but I hold this proved both in matter and manner; for it would not have been sufficient for *Pell* to have proved, he was cosened thus much, but in this manner. That which is worst of all, and is so foul, that his Councel offered no defence at all, and that was *Bagg's* own answer; where he sweareth, that he never did deserve any such kindness of Sir *Anthony Pell* for to do so great Curtesie, as to lend him these monies. Look but upon, and see the many Letters he writ; *James Bagg, your most real Friend, your business will be better done if you leave it to your Friend James Bagg.* Here is his Hand against his Oath, and his Oath against his Hand. He was a most base fellow to say, *your most real Friend*, and to serve Sir *Anthony* as he did. I have now done with that bottomless *Bagg*, and my censure; I leave my Lord of *Portland* to do what he thinketh fit against him. I hold it as dangerous a practice of him as ever was in this kind. I fine him at 5000 *l.* and Imprisonment during the King's pleasure; and for his Office leave it to the King's pleasure: only pray, that a Man whose Hand and Oath cannot be taken may not be in trust, especially in places concerning His Majesty. The Plaintiff hath a loss personal and real, and ingaged himself in many thousand pounds for the obtaining of money, therefore I fine *Bagg* 500 *l.* damages to Sir *Anthony Pell*.

The Lord *Cottington*, who first began according to the course of the Court, was of opinion Sir *James Bagg* ought to be acquitted, and Sir *Anthony Pell* to be censured *pro falso Clamore*, for casting an aspersion upon my Lord Treasurer, by putting those passages of scandal into his Bill.

And the Earl of *Dorset* declared he did not think it to be a crime for a Courtier that comes up to Court for his Majesties service, and lives at great expence in his attendance, to receive a reward to get a business done by a great Man in Power, and was of opinion with my Lord *Cottington*, to fine the Plaintiff *pro falso Clamore*.

The

An. 1635.

The Bishop of Canterbury's Letter to the Arch-Bishop of
St. Andrew's in Scotland.

My very good Lord,

FOr the Particulars entrusted by the Church to the Lord Bishop of Brechen, and namely about the Abbacie of Lindores, you must expect them from the Bishop himself, and from such relations as you will receive by my Lord and the Earl of Traquair. Now at this time you shall receive nothing, but that which is commanded me by the King, and must be my part to act in the present and future business for the Church of Scotland.

My Lord, For the present the King is resolved, upon some great reasons of State, which have prevailed with him, not to meddle with the Abbacy of Lindores, or any other of that nature, as yet, but to leave them in that state in which they now are, till such time as he may consider the Decrees, and the Act or Acts of Parliament which concern them; and till he can find a way to order them better, both for his own profit, and the contentment of His people there: assuring you in the mean time, that both in this and all other business, he will be very careful both of the credit, and of the maintenance of the Church; whereof if your self or any other Bishop or Clergy-man shall make doubt, I am commanded to tell you, that therein you will not only do His Majesty wrong, but hurt your selves and the Church, which you seek to benefit. And in this very particular, you are to know, and make known to others, that it is not the dislike of any person or persons, or of the thing it self, that causes this present stay, but reason of state only, and the care which the King hath that all proceedings may go on according to Law. As for the Bishopricks His Majesty will take their wants into as Provident care as he can, and hath settled Arbroth upon the Bishoprick of Brechen, but in what form I am not able to tell you, as not being so well acquainted with the Customs and Constitutions of that Kingdom, and therefore lest I should mistake in any circumstance, I leave that wholly to the Bishop's own Relation.

For all the business of that Church in future, which must come to the Exchequer or any other publick Audience, or any other business that may reflect upon the Church, or anything that belongs to the King's service, in which Church-men are trusted, you are immutably to hold this Rule, and that by his Majesties strict and most special Command, namely that your self, or the Lord Ross, or both of you together, do privately acquaint the Earl of Traquair with it, before it be proposed in publick, either at the Council-Table, or the Exchequer, or elsewhere: and the Earl hath assured the King in my presence that he will strictly observe and hold the same correspondency and course with you; and further, that he will readily and faithfully do all good Offices for the Church, that come within his power, according to all such Commands as he shall receive, either immediately from the King, or otherwise by direction of his Majesty from my self. And if at any time your Lordships, and my Lord Traquair shall upon any of the forementioned business so differ in Judgment, that you cannot accord it among your selves, let it rest, and write up either to His Majesty, or to my self, to move His Majesty

sty for further direction, which once received you are all to obey, that so this little unhappy difference, which lately arose about Lindores, may be laid asleep; and that no other may hereafter rise up in the place of it, to disturb either the Kings or the Churches service, or disorder any of your selves, who are known to be such careful and direct Servants to both. And to the end this may go on with better success, His Majesty precisely commands, that this mutual Relation between the Earl of Traquair and you be kept very secret, and made known to no other Person, either Clergy or Laity, for the divulging of these things cannot but breed Jealousies amongst men, and disservices in regard of the things themselves; and therefore the King bids me tell you, that he shall take it very ill at his hand, whoever he be, that shall not straightly observe these his directions. This is all which I had in command to deliver to you, and I shall not mingle with it any particulars of my own; therefore wishing you all Health and Happiness, and good speed in your great affairs, I leave you to Gods Blessed Protection, and rest,

Your Graces very Loving Friend
and Brother,

Novemb. 10. 1635.

W. Canterbury.

My very good Lord, S. in Christo,

I Have but one thing at this present to trouble you with, but that hath much displeased the King, and not without very just cause; for now while the King is settling that Church against all things that were defective in it, and against the continuance of all unwarrantable customs unknown to, or opposed by the ancient Church of Christ, the now Bishop of Aberdeen hath given way to, and allowed a publick Fast throughout his Diocess, to be kept upon the Lords Day, contrary to the Rules of Christianity, and all the ancient Canons of the Church. I was in good hope that Church had quite laid down that Ill Custom: but since it appears the now Bishop of Aberdeen hath continued it, and perhaps others may follow his example, if this pass without a check; therefore His Majesties Express Will and Command to your Grace is, That you and my Lord Glascow take order with all the Bishops in your several Provinces respectively, that no man presume to Command, or Suffer any Fast to be upon that day, or indeed any publick Fast upon any other day without the Special Leave and Command of the King, to whose Power it belongs, and not to them. And farther His Majesties Will and pleasure is, that if the Canons be not already Printed (as I presume they are not) that you make a Canon purposely against this unworthy Custom, and see it Printed with the rest; and that you write a short Letter to the Bishop of Aberdeen, to let him understand how he hath over-shot himself, which Letter you may send together with these of mine, if you so please. This is all which for the present I have to trouble you with; therefore leaving you to Gods Blessed protection, I rest,

Your Graces very Loving
Friend and Brother,

Will. Canterbury.

II Caroli.

December 1.
The Arch-Bishop of Canterbury's Letter to the Lord Arch-Bishop of St. Andrews.

An. 1635.

Mr. Chancey
questioned in
the High-
Commission.

MR. *Chancey* Minister of *Ware* in *Hertfordshire* for opposing the making of a Rail about the Communion-Table in that Parish-Church, as an Innovation and Snare to mens Consciences, was brought into the High-Commission, and there pronounced guilty of contempt of Ecclesiastical Government, and raising a Schism; and was suspended from his Ministry, till he should make in open Court a Recantation after a prescribed form, acknowledging his great offence in using the invective Words, and protesting that he was perswaded in his Conscience, that kneeling at the Sacrament was a Lawful and Commendable Gesture, that the Rail set up in the Chancel with a Bench thereunto annexed, for kneeling at the Holy Communion, was a decent and convenient Ornament, and promising never by Word nor Deed to oppose either that, or any other Laudable Right and Ceremony prescribed in the Church of *England*.

He is condemned in great costs of Suit, and was imprisoned till he paid the same, or performed the order of the Court.

Afterwards Mr. *Chancey* having made the enjoined Recantation, was dismissed with a judicial admonition given by the Arch-Bishop to live Peaceably and Conformably to the Doctrine, Discipline and Ceremonies of the Church of *England*, and neither by Word nor Deed to oppose, or to bring into a disesteem any of them.

January 19.
Against Hack-
ney-Coaches.
in and about
London, giving
disturbance in
the Streets.

THE Kings Majesty took into consideration, the restraint of the multitude and promiscuous use of Coaches about *London* and *Westminster*. His Majesty perceiving that of late the great numbers of Hackney-Coaches were grown a great disturbance to the King, Queen and Nobility through the Streets of the said Citys, so as the common passage thereby was hindred, and made dangerous, and the Rates and Prices of Hay and Provender, and other Provisions of the Stable thereby made exceeding dear, hath thought fit, with the advice of His Privy-Council, to publish His Royal Pleasure for Reformation therein; and therefore doth Command and Forbid, that from the Feast of St. *John* the Baptist next coming, no Hackney, or hired Coach or Coaches be used or suffered in *London*, or *Westminster*, or the Suburbs or Liberties thereof, except the same Hackney-Coach or Coaches be to travel at the least three miles out of *London* or *Westminster*, or the Suburbs thereof, or farther. And also that no Person or Persons shall go in a Coach in the Streets of *London* or *Westminster*, or Suburbs or Liberties thereof, except the Owner of the same Coach shall and do constantly keep within the said Cities and Suburbs thereof four sufficient able Horses or Geldings fit for His Majesties Service, whensoever His Majesties occasions shall require them, upon great Penalties contained in the said Proclamation; and for the due execution thereof, His Majesty doth Command all Justices of Peace, Majors, Bailiffs, Constables of the said Cities and Suburbs, to be aiding and assisting, whereby such as wilfully do offend in the Premises, may be brought and presented to His Majesties Privy-Council, to be proceeded against according to the demerits of the Offenders.

It

11 Caroli.

It is worth observation, that in the first year of the Reign of King *Charles*, no Hackney-Coaches did stand in the Streets, but at their Stables, and they were sent unto to come abroad by those who had occasion to use them: and there were not above twenty Hackney-Coaches at that time, to be had for hire in and about *London*.

The grave Judges of the Law constantly rid on Horseback, in all weathers, to *Westminster*: All Lawyers in those days pleaded in Ruffs, falling-bands came afterwards in fashion.

THE King by the advice of His Privy-Council, according to a Statute made in the fourth year of King *Edward* the third, did publish and declare, that for one year following, *Canary-Wines*, *Muscadels* and *Alicant* be sold in gross at 17 *l.* the Pipe, and at 12 *d.* the Quart; *Sacks* and *Malagoes* at 15 *l.* the But in gross, and 10 *d.* the Quart by retail; *Gascoin* and *French Wines* at 18 *l.* the Tun; the *Rochel-Wines* at 15 *l.* the Tun, and at 6 *d.* the Quart by retail.

February 1.
The Pricing of
Wines.

WHEREAS the Kings Majesty was informed by the Chief Landlords and Inhabitants of the Lands and Possessions next adjoyning to the Out-bounds of his Kingdoms of *England* and *Scotland*, that by the great and general Intercourse, secret Practises and Combinations of Out-Laws, Felons and Malefactors of both those Kingdoms, divers and sundry Outrages and Felonies have been by them committed; The King hereupon taking into His Princely Consideration the reformation of such Mischiefs; and calling to mind that sundry the chief Landlords of the Lands and Possessions next adjoyning to the Frontiers of the said two Kingdoms, were contented to undertake to King *James*, that those Tenants under them should be answerable to the Kings Laws for any Felony or Capital Crime they should be charged with; and if the Party Delinquent should happen to fly, before he or they should be apprehended, and the Party grieved should by course of Law Indict and Convict the Party or Parties Delinquent of the said Felony or Felonies, that then the said Landlord, to whom the Forfeiture of such Party Convicted should accrue, should make Restitution to the Party Grieved of such Goods as were stolen from him by the said Party or Parties Convicted; the said Landlord being Authorised himself and Officers to search for, and apprehend any Felons, Fugitives, Abettors, Out-putters, or any suspected Persons secretly lurking, remaining or being within the said Landlords Bounds or Limits, and him, or them to bring to answer to the several Laws of the Land: of which said Undertaking the King did well approve; and did therefore command all Chief Landlords in the Counties of *Cumberland* and *Northumberland*, to put the same in Execution, to the utmost of their Power.

February 25.
A Proclamation
on for the sup-
pressing of Fe-
lons and Out-
laws, thei
Ayders and
Abettors, by
bringing them
to be answer-
able to the se-
veral Laws of
the several
Realms of
England and
Scotland.

Titles of Proclamations for the Year 1635.

A Proclamation prohibiting the use of the Net or Engine; called a Trawle.

Whitehall,
April 11.

An. 1635.

Oatlands,
July 21.A Proclamation to restrain the Kings Subjects *departing out of the Realm* without License.Oatlands,
July 26.A Proclamation for the suppressing of profane *Swearing and Cursing*.Oatlands,
July 28.A Proclamation for the better ordering of those who repair to the Court, for their Cure of the Disease called the *King's Evil*.Bagshot,
July 31.A Proclamation for the setting of the *Letter-Office* of England and Scotland.Oatlands,
August 24.A Proclamation declaring His Majesties Royal Grace and Pleasure to confirm to His Subjects their *defective Estates* in their Lands and Possessions *by his Commission* lately renewed and enlarged to that Purpose.Windfor, Sep-
tember 6.A Proclamation for preventing of Abuses of *Informers*, Clerks, and others in their *Prosecutions* upon the Laws, and Statutes of this Realm.Hampton-
Court, Sept. 30.A Proclamation Prohibiting the Importation of *Purles, Cut-works, Bonelaces*, made in foreign Parts, and for the *sealing* of such as are made within the Realm of England and Dominion of Wales.Roxstone,
Oct. 14.A Proclamation prohibiting the Importation of all sorts of *Glass* whatsoever made in Foreign Parts.Hampton Court
Nov. 1.A Proclamation to restrain the Landing of men; goods out of such Ships as shall come from the parts of *France*, or the *Low-Countries*, now infected with the Plague, till they have warrant from the Officers or Farmers of His Majesties Customs.Hampton-
Court, Nov. 1.A Proclamation for restraint of *Excessive Carriages* to the destruction of the *High-Ways*.Whitehall,
Jan. 18.A Proclamation for the restraint of the Consumption of the *Coyne* and *Bullion* of this Realm, and the deceitful making of *Gold and Silver Thread*, and for the regulating thereof for the time to come.Westminster,
Jan. 19.A Proclamation for the restraint of the Multitude and Promiscuous use of *Coaches* about London and Westminster.New market,
Feb. 1.A Proclamation for the *Pricing of Wines*.Westminster,
Feb. 25.A Proclamation for the suppressing of *Felons* and *Out-laws*, their Aiders and Abettors, by bringing them to be answerable to the several Laws of the several Realms of England and Scotland.Whitehall,
March 1.

A Proclamation concerning Farthing-Tokens.

Historical Collections

For the Year 1636.

The Arch-Bishop of Canterbury's Diary.

T *Hursday*, the Bill came in this day that Two dyed of the Plague at *White-Chappel*, God blefs us through the Year.

April 7. The Arch-bishop of Canterbury's Diary.

May 16. Monday, the settlement between *L. M. St.* and me: God blefs me.

May 17. Tuesday, I visited the Dean and Chapter of *St. Pauls London*, &c.

May 19. Thursday, the Agreement between me and *L. K. Ch.* which began very strangely, and ended just as I thought it would.

June 21. Tuesday, my Hearing before the King about my Right to visit both the Universities *jure Metropolitico*, it was ordered with me; the Hearing was at *Hampton-Court*.

June 22. Wednesday, the Statutes of *Oxford* finished, and published in Convocation.

August 3. Wednesday-night towards the morning, I dreamed *L. M. St.* came and shewed me all the Kindness I could ask, and that *Thursday, August 4.* he did come and was very kind towards me, *somniis tamen haud multum fido.*

August 19. Friday, I was in great hazard of breaking my Right Leg.

August 29. Monday, King *Charles* and Queen *Mary* entred *Oxford*, being to be there entertained by me as a Chancellor of the University.

August 30. on *Tuesday* I entertained them at *St. Johns Colledge*, it was *St. Felix* his day, and all passed happily. *Charles* Prince-Elector-Palatine, and his Brother Prince *Rupertus* was there; these Two were presented in Convocation, and with other Nobles were made Masters of Arts.

Wednesday August 31. they left *Oxford*, and I returned home-wards the day after, having first entertained all the Heads of Houses together.

October 14. Friday-night I dreamed marvellously that the King was offended with me, and would cast me off, and tell me no cause why: *Avertat Deus*, for cause I have given none.

November 20. Sunday-night my fearful dream, Mr. *Cob* brought me word, &c.

December

An. 1636.

December 24. Saturday at night, Christmas-Eve; that night I dreamed I went to seek *M. St.* and found him with his Mother sitting in the room, it was a fair Chamber, he went away, and I went after, but missed him, and after tired my self extreamly; but neither could I find him, nor so much as the House again.

March 26.

To inroll
Mare Clausum.

His Majesty this day in Council taking into Consideration a Book lately Published by *John Selden* Esq; Intituled *Mare Clausum, seu de Dominio Maris*, written by the Kings Command, which he had done with great Industry, Learning and Judgment, and hath asserted the Right of the Crown of *England* to the Dominion of the *British* Seas. The King requires one of the said Books to be kept in the Council-Chest, another in the Court of *Exchequer*, and a third in the Court of Admiralty, as faithful and strong Evidence to the Dominion of the *British* Seas.

April 5.

Mariners.

The Kings Majesty being informed, that divers Mariners being Pressed for His Service at Sea, have lately withdrawn themselves from His Majesties Ships, and are entertained by Merchants and others, doth require and command, That all such Mariners do immediately repair to His Majesties Service, for which they are or ought to be entertained for His Majesties use. And the King doth inhibit and forbid all Merchants and Masters of Ships whatsoever, to receive or continue any Mariner in their Service, who have deserted the Kings Ships.

April 7.
Plague.

Thursday the 7th of April: The Bill came this day, that Two dyed at *White-Chappel* of the Plague; and it appears by the Bill of Mortality given in *December* this Year, that there dyed in the whole of the Plague to the number of

His Majesty, as to *Mare Clausum*, further expresseth His Pleasure on the 15th of April.

April 15.

Mare Clausum
Printed beyond
Sea.

Whereas there was heretofore by the Kings Command Published a Book Intituled *Mare Clausum, seu Dominio Maris*, for the manifesting of the Right and Dominion of the King and His Royal Progenitors in the Seas, which encompasses the Realms and Dominions of *Great Britain* and *Ireland*. And whereas since the Publishing thereof, some have caused the said Book to be Printed in some Place beyond the Seas, and to the said Impression have added more than what was therein printed at first, and hath falsely put in the name of the City of *London* for the place of the Impression.

The King doth require, that no person whatsoever, do, or shall import, publish, set to sale, any of the said Books of the said Foreign Edition, either in *Latin* or *English*, except only such as have, or shall be licensed by the Laws and Customs of this Realm.

The

THE Kings Majesty having taken into consideration the great quantity of Money exhausted from His Subjects, and exported out of His Dominions into Foreign Parts for counterfeit Jewels, of Pearl, Pendants, Chains, and false Stones, carrying only a shew and semblance of Precious Stones, Pearls and Jewels: Doth, by the Advice of His Privy-Council, charge and command, That from henceforth no Person or Persons whatsoever, do wear or use any counterfeit Jewels, Pearls, Pendants, Chains, or false Stones, upon pain of Forfeiture of the same, and such other Pains as shall be inflicted upon them.

12 Caroli.

April 18.
An Order against counterfeit Jewels.

Upon the 19th of April His Majesty, as to the Liturgie designed for Scotland, thus expressed His Pleasure.

Charles Rex,

I Gave the Arch-bishop of Canterbury Command, to make the Alterations expressed in this Book, and to fit a Liturgy for the Church of Scotland; and wheresoever they shall differ from another Book Signed by Us at Hampton-Court, September 28, 1634. Our Pleasure is, to have these followed rather than the former, unless the Arch-bishop of St. Andrews, and his Brethren, who are upon the Place, shall see apparent reason to the contrary.

Liturgy in Scotland.

THE Kings Majesty finding, that the Infection of the Plague hath begun to break forth in some Places, near unto the City of London, and some other Parts of the Kingdom:

April 22.
Plague.

Doth, out of a provident Care, and for the safety of his People, (a timely use of good means being required to prevent the dispersing thereof) take notice, that in the time of the last Plague, there were divers good Orders published, with Rules preservative, and Directions against the Infection; His Majesty is pleased that the said Orders, Rules and Medicines shall be again now published and renewed. And doth therefore require all Justices of Peace, Majors, Sheriffs, and other Officers and Ministers, to take knowledge of His Majesties Pleasure herein: and that every one in their several Places, where the Infection shall happen to be, use all care and endeavours effectually to prevent the spreading of the same.

THE King doth declare His Pleasure, That whereas in His Universities of Oxford and Cambridge, and in His City of London, divers Books not else-where Printed and Published, at the Costs and care of some of the Kings Subjects, and afterwards some of the said Books have been re-printed in the Dominion of Foreign Princes, or States, and from thence Imported, and put to Sale here; by which the Subjects (at whose Cost the first Impression was made) have been much prejudiced in the Sale of such their said Impression.

1 May 1636.
To prevent the Printing of Books beyond Sea, which were first Printed at the Universities in England.

The King being desirous to give special encouragement to all good and lawful endeavours used to advance good Arts and Learning, and to prevent the like Importation, doth charge and command,

An. 1636.

mand, That no person whatsoever shall import into the Realm of England or Ireland, or Dominion of Wales, out of the Dominions of any Foreign Prince, or shall offer to put to Sale any Foreign Edition, or any Books or Copies, either in *Latin* or *Greek*, or in the *Hebrew*, *Caldea*, *Syriack*, and *Arabick* Tongues; the first Edition of publishing whereof hath been first come out of any Press or House of Printing in the said Universities, or out of the City of London.

The King appeared this Year with a formidable *Armado* in the Narrow-Seas, *Algernoune* Earl of *Northumberland* being Admiral, had 60 Sail under his command, who set out from the *Downs* towards the *North*, where the *Dutch Busses* were Fishing upon the Coasts of the Isles, part of the King of *Great Britain's* Dominions; but the Admiral requiring them to forbear, they seemed indisposed thereunto; whereupon the Admiral fired at them; some of them were taken, others sunk, and the rest fled: And the *Dutch* immediately hereupon prevailed with the Admiral to mediate with the King, that they might by His Permission go on this Summer to Fish upon the Coasts, and agreed to give the King for this Year 30000 *l.* which was paid accordingly; and the *Dutch* expressed their willingness to obtain a Grant from the King, for their Permission to Fish for time to come, paying a yearly Tribute.

His Majesty thought fit at this time to declare His Pleasure for Restraint of Fishing upon His Majesties Seas and Coasts without License.

10. May 1636.

WHereas King *James* did, in the Seventh Year of His Reign of *Great Britain*, set forth a Proclamation touching Fishing; whereby, for the many important Reasons therein expressed, all Persons of what Nation or Quality soever, (being not His Natural-born Subjects) were restrained from Fishing upon any the Coasts and Seas of *Great Britain*, *Ireland*, and the rest of the Isles adjacent, where most usually heretofore Fishing had been, until they had orderly demanded and obtained Licences from the said King, or His Commissioners in that behalf, upon pain of such chastisement as should be inflicted upon such wilful Offenders: Since which time, albeit neither the said King, nor His Majesty have made any considerable execution of the said Proclamation, but have with much patience expected a voluntary conformity of His Neighbours and Allies to so just and reasonable Prohibitions and Directions, as are contained in the same.

And now finding by experience, that all the inconveniences which occasioned that Proclamation, are rather increased than abated: His Majesty being very sensible of the Premises, and well-knowing how far he is obliged in Honour to maintain the Rights of His Crown, especially of so great consequence, has thought it necessary, by the advice of His Privy-Council, to renew the aforesaid Restraint of Fishing, upon His aforesaid Coasts and Seas, without Licence first obtained from Him; and by these Presents do

make

make publick Declaration, That His Resolution is, (at times convenient) to keep such a competent strength of Shipping upon His Seas, as may (by God's Blessing) be sufficient both to hinder such further encroachments upon His Regalities, and assist and protect those His good Friends and Allies, who shall henceforth, by vertue of Our Licences, (to be first obtained) endeavour to take the benefit of Fishing upon His Coasts and Seas in the Places accustomed.

12 Caroli.

Whereas His Majesty King *James*, by His Proclamation dated the 18th of *May*, in the 17th Year of His Reign, for the encouragement of His Subjects, the Company and Merchants Trading for *Muscovy*, *Greenland*, and the Parts adjoining, commonly called the *Muscovy-Company*, did inhibit the Importation of Whale-Fins by any person, other than by that Company:

16 May 1636.
The King inhibits the Importation of Whale-Oyl or Whale-Fins,

The King being now minded to give the like encouragement, which, by the increase of Navigation, conduceth much to the common Good of the King and People, doth now think fit to prohibit all Aliens, and Strangers whatsoever, as well as the King's Natural-born Subjects, that they, nor any of them, other than the *Muscovy* Merchants only, Import, or bring any Whale-Oyl or Whale-Fins into any of the King's Dominions, upon penalty of forfeiture of the same, and upon pain of such other punishment as by the Court of *Star-chamber* shall be thought fitting, and that none do presume to buy, utter, sell, barter, or contract for any Whale-Oyl or Whale-Fins of any others than of the *Muscovy*-Merchants.

THE King's Majesty finding that the Infection of the *Plague* is at this present scattered and dispersed in the Cities of *London* and *Westminster*, and the Suburbs of some Parishes adjoining to the same, and weighing the danger and inconvenience, which may fall out by the resort of His Subjects from all Parts of the Kingdom to His Cities of *London* and *Westminster*, for their necessary Causes and Suits the next Term, hath thought fit, by the advice of His Privy-Council, to Adjourn some part of *Trinity-Term* next, from the second Return thereof, until *Tres Trinitatis*, being the last Return of the same; and that to be for such Causes as are hereafter expressed.

27 May 1636.
The King by Two Proclamations Adjourns part of *Trinity-Term*.

See this Proclamation at large in the Appendix.

Whereas *Richard Chambers* Merchant, having commenced a Suit for Trespass and false Imprisonment against Sir *Edward Bromfeild*, for imprisoning him the said *Chambers*, for refusing to pay *Ship-money* in the time that Sir *Edward Bromfeild* was Lord Mayor of the City of *London*; in which Suit the said Sir *Edward Bromfeild* did make a special Justification: Sir *R. B. Knight* being then one of the Justices of the Court of *King's-Bench* in *Trinity-Term* 1636, then sitting on the Bench in the said Court, upon debate of the said Case between the said *Chambers*, and Sir *Edward Bromfeild*, said openly in Court, That there was a *Rule of Law*, and a *Rule of Government*, and that many things which might not be done by the Rule of Law, might be done by the Rule of Government,

June 1636.
Trin'-Term. Sir *R. B. Knight* refused to let the Case of *Ship-money* be argued.

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June 6.
The opinion of
all the Judges,
whether the
Books written
by *Burton* and
Bastwick did
amount to
High-Treason.

and would not suffer the Point of Legality of *Ship-money* to be argued by *Chambers* his Council.

Upon *Tuesday* the 6th of *June* 13 *Caroli*, all the Judges met at *Serjeants-Inn*, and all the King's Council, about seditious Books written and dispersed by Mr. *Burton*, and Dr. *Bastwick*. After several Speeches made by the King's Council, endeavouring to prove that there were divers Passages in the Books that amounted to High-Treason: The Judges in their absence debated the Business, and resolved as followeth.

1. That if there were any thing in the Books that amounted to Treason, no Indictment would be found good for Treason, unless it was grounded upon the Statute of 25 *Edw.* 3. either for compassing the King's Death, or imagining the same, or else for levying of War.

2. If any Man seditiously, maliciously, and of purpose to raise Rebellion, and to incite Rebellion, did take Arms to reduce the course of Government, of the State, either Ecclesiastical or Civil, and thereby to compass the King's destruction, this was Treason.

3. That the Indictment was to be framed upon the said Statute of 25 *Edw.* 3. and further the Judges went not that day. And this was delivered by the Lord Chief-Justice to the King and Council, and so they parted at that time.

About this time the *New-Statutes* for the University of *Oxford* were finished and published in Convocation.

The Preface to those Statutes disparaged King *Edward's* Times and Government, declaring, that the Discipline of the University was then discomposed and troubled by that King's Injunctions, and the flattering novelty of the Age, and that it did revive and flourish again in Queen *Mary's* days, under the Government of Cardinal *Poole*; when, by the much to be desired felicity of those Times, an in-bred Candor supplied the defect of Statutes.

This same Year there arose a Difference between the Arch-bishop and the Two Universities, *Oxford* and *Cambridge*, concerning the Right of Visiting those Universities; the Arch-bishop claiming it *Jure Metropolitico*, and they Pleaded that it was settled in the King alone, as King, and their Founder. This Cause came to a Hearing before His Majesty, sitting in Council; Sir *John Banks* the King's Attorney-General Pleading for the Arch-bishop's Right, and the King's; the King then in Person arguing and giving Judgment against himself.

The Business
debated in the
King's Pre-
sence.

At *Hampton-Court*, on the 21st of *June*, the King and Council being sat, the Lord Arch-bishop standing at the Right-Hand of the King, spake to this effect. That by Letters he had acquainted the Two Universities, that he conceived he had power to Visit them, as being within his Province, and Metropolitcal Jurisdiction, and desired to know their Answers. To this a civil Answer was returned, both from *Oxford* and *Cambridge*, That to yield to such

such a Proposition by their own Power, without a Command from His Majesty, were a wrong to the Universities. Thereupon he delivered a Petition to His Majesty, and desired a Gracious Hearing; and now he humbly besought His Majesty to do him the favour to hear this Cause; for the Church of *England* should never be able to settle things right without some Power over the Universities.

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Then the Earl of *Holland*, Chancellor of the University of *Cambridge*, standing at the Left-Hand of the King, spake, and said, That he hoped His Majesty would not suffer that University to lose its ancient Priviledge; it being never wont to be Visited, save by His Majesty, and those by Commission from him, and ever exempted from the Visitation of any Bishop or Arch-bishop.

Then the Attorney-General argued as followeth,

The Question in short is, whether the Arch-bishop of *Canterbury*, as Metropolitan, ought to Visit the Universities of *Oxford* and *Cambridge*, as being within his Province? This doth no way intrench upon Your Majesty, for it must be acknowledged, that Your Majesty is the Supreme Ordinary, and hath Supreme Jurisdiction, and may Visit both Universities by Your Commission, notwithstanding You may do it by Your Lord Arch-bishop; this is an undoubted Right. My Lord Arch-bishop hath a double Capacity; the one as Arch-bishop, the other as Chancellor of *Oxford*. He desires to do equal Justice, and to offer no otherwise to that Honourable Person, the Chancellor of *Cambridge*, than to himself. Bishopricks and Arch-bishopricks are all of them of Your Majesties, and Your Royal Progenitors Foundation, originally Donative, long before the Conquest, and before time of memory. And as ancient as the Arch-bishop is, so ancient is the Jurisdiction. The Visitation of the Arch-bishop is of Common Right, and not of special Persons, but of the Clergy, and the People in all Causes that be Ecclesiastical, and in all Places within his Province, without any manner of Exception. By the Statute of 21 *H. 8.* it doth appear, that all Houses of Religion, all Colledges, &c. are within the Visitation of the Arch-bishop of the Province. And by another Statute expresse Provision is made, that in all Places, as well exempt, as not exempt, the Arch-bishop shall have Power to Reform, and punish those that do ought against the Orders of the Church, Common-Prayer, &c. 13 *Eliz.* a Statute which confirmeth the 39 Articles, entrusteth the Lord Arch-bishop to see the Doctrine of the Church maintained. It will appear, that in the time of *Edw. 1. Rich. 2. Edw. 4.* the Arch-bishop Visited the University in his own Metropolitcal Right, and not by any *Bull* from the *Pope*; and there is as urgent necessity in these Times. Many things may be omitted by the Chancellors, that are commonly great Men, and many things to be Reformed concerning the Administration of the Sacraments, and the Orders of the Church. In *Cambridge* there may be Chappels that were never yet Consecrated. In the review of all Ecclesiastical Laws appointed by Act of Parliament in the Times of *H. 8.* and *Edw. 6.* which shew the opinion of the Times; it appeareth expresse, there should be no Exemption of Colleges from the Arch-bishop's Visitation.

The King's Attorney argueth for the Arch-bishop.

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Sir John Lamb
second the
King's Attor-
ney.

Sir John Lamb seconded the King's Attorney, and said, The Arch-bishop Visiteth of common Right, and the Universities are parts of his Province, and the Burthen is cast on the other side to prove the Exemption. That in Causes handled in the Universities they had a Remedy to appeal to the Arch-bishop, who heard the Complaints of the Parties, and Visited them; this he said he would shew by Record, which had been kept many Hundred Years.

Hereupon His Majesty commanded the Universities to shew their Exemption, and proposed that one should speak for both; but it was answered, that the Defences for both were different one from the other.

Then Mr. Gardiner, Recorder of London, spake on the behalf of Cambridge.

The Recorder
of London on
the behalf of
the University
of Cambridge.

In stating this Question it's thus far agreed, That Your Majesty hath power of Visitation; but the Question is, whether Your Majesty hath the sole Power, or my Lord's Grace a Power concurrent with Your Majesty.

No, saith the King, the Question is, whether he hath not Power to Visit there as within his Province.

The Recorder thus proceeded. I shall tell your Majesty what I conceive of Metropolitcal Visitations, and then of the manner of Government, and Rule of the University; and then how the Rule of the one will stand with the other. And lastly, I shall offer what we have for Exemption.

In England there be Arch-bishops, Bishops, and Arch-deacons. The Bishop hath his Visitation every Three Years; my Lord's Grace hath his Visitation once in his time, and he Visiteth those of the Province; to the end they may be subordinate, and in all their Causes and Sentences they Appeal to him as Superior.

Here the Arch-bishop interposed, saying, I may Visit as oft as I will.

Mr. Gardiner went on. For the Government of the University, there is a Chancellor, Vice-chancellor, Proctors, &c. They may proceed by way of Excommunication; they may imprison and banish, which is more Power than appertains to any Metropolitcal Visitation. Only one Bishop of Ely did Excommunicate one of this University; but the Bishop was afterwards Excommunicated; and the Cause being heard before Cardinal Wolsey, he was made to submit himself. Further than this we find no President, that either the Ordinary of the Diocess, Arch-deacon, &c. did ever meddle.

5 R. 2. In the Petition to the Parliament, We are stil'd an University founded by Your Majesties Progenitors: wherefore the Power of Visitation doth of right belong to Your Majesty, and this is an Exemption from any ordinary Jurisdiction. For other Exemptions, We have Bulls from the Pope, and Charters: about the beginning of King Richard the 2d's Time most of the Charters were burn'd by an Insurrection in the Town; but many of them were Confirmed to the Time of H. 6. upon a Suit made to the Pope, to give some Confirmation to their Priviledges, in regard their Charters were burn'd. Whereupon the Pope granted a Commission, and Witnesses were examined, which Examination was a means

means to produce Two ancient *Bulls*, exempting them from Metropolitan Visitation; the one bearing date *Anno* 624, the other 699.

12 Caroli.

The Arch-bishop said, These Exceptions were not to be found in any Priories, or Nunneries at the first Foundation; but as soon as they got any Money, they sent presently to *Rome* to get an Exemption; and by that means the Bishops lost their Reputation, and Jurisdiction, even the Council of *Trent* and *Spanish* Bishops have all plaid their part herein. And this is the Complaint of whole Christendom against the Council of *Trent*; of which, next to Purgatory, the Pope of *Rome* hath made his great Advantage: Unto this the King said, I dare say the Pope doth as much to beat down Bishops, as any Puritan doth in *England*.

In the Close the Arch-bishop proceeded thus.

There are Three Chappels in *Cambridge* not Consecrated. I demanded why they were not? Dr. *Chadderton* made answer, He hoped they were Consecrated by Faith and good Conscience. They come into the Chappel without Surplices, and other dangers are growing, and the University will be past remedy before any Complaint be made.

The Earl of *Holland* answered, All this may be Reformed in the way that we desire. If you will Visit, you may do it by Commission; the King can grant it. The Bishop replied, No; I desire to have my own Power.

Upon the Hearing of the whole Cause, it was declared by the King, with the Advice of the Privy-Council, That it was granted on all Hands, that the King had an undoubted Right to Visit the Universities; and that the Arch-bishop, in the Right of his Metropolitan Church in *Canterbury*, had Power to Visit the whole Province, in which the Universities were situated, and were under the same Power, unless they could shew Priviledge and Exemption.

That the Exceptions then alledged were not such as could give satisfaction. That they could be Exempted by no Papal Bull; and that they were Exempted by none of their Charters. That the long omission of the Arch-bishops to Visit, could be no prescription to bar the Right of the Metropolitan See. That it appear'd, that both Universities had been Visited by Three Arch-bishops, his Predecessors, *jure Metropolitico*, and not by a Legative Power. That this coming in question, upon the resistance of the University of *Oxford*, it was, upon full Hearing of both Parties, adjudg'd for the Arch-bishop by King *Richard* the 2d, and afterward, upon the like Hearing and Re-examination by King *Henry* the 4th, and both of their Judgments established by Act of Parliament 13 *Hen.* 4. And the Arch-bishop produced before His Majesty the Original Renunciation of all Priviledges from any Pope, made by the University of *Cambridge* under the Hands of the Heads of Houses.

So the King and Council adjudg'd the Right of Visiting Universities, and Chancellors Scholars, and all Persons enjoying the Priviledges thereof, to belong to the Arch-bishop, and Metropolitan Church of *Canterbury* by themselves or their Commissaries.

Where-

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Whereupon the Arch-bishop made this motion to the King: First, for himself, that His Majesty would be Graciously pleased, that he might have the Sentence drawn up by the Advice of His Majesties Learned Concel, and put under the Broad Seal, to settle all differences that hereafter might arise. Then on behalf of both the Universities, that they should remain free and exempt from the Visitation, and Jurisdiction of the Bishop of the Diocese, or Arch-deacon.

Also, seeing it was declar'd to be his Right to Visit Metropolitically, and it was not limited by Law how often; therefore, notwithstanding the last Custom of Visitation *semel in vita tantum*, that he might Visit the Universities by himself, or his Commissary, as often as any great emergent cause should move him: provided that neither he, nor any of his Successors, should, after the first Visitation, Visit upon such emergent Causes, unless it be first made known to His Majesty and His Successors. All which was granted by the King, and so settled.

Lastly, Whereas it was alledged, that the Chancellors of either University were, and are like to be Persons of great Honour and Eminence; and therefore it might be inconvenient, that they should be call'd to such Visitation: It was declar'd by His Majesty, that in the course of Law the Chancellor would be allowed to appear by his Proxie.

Serjeant Thin desired leave of His Majesty to speak a few words for the University of Oxford, which was to the effect following, he being the Mouth of the rest of the Council.

Serjeant Thin. **T**Hat it was an ancient University, and had as ancient Priviledges, and, by Bulls from the Pope, was ever exempt from the Visitation of any Arch-bishop as in his Metropolitcal Right; for as none can Found an University but Your Majesty, and Your Progenitors, so none have Power but Your Majesty to Visit there. But that which concerneth us is, that it was a Foundation long before the Conquest; from the time of the very Foundation of this University unto this day, we conceive there was never any Visitation made by any Arch-bishop, as being within his Province.

King. *Never any,* (saith the King:) As the University is ancient, so likewise Our Custom is as ancient, which for many Hundred Years we may prescribe (the King answered) *but a bare Prescription in this Case will not prevail.*

Thin. We have no Records so old, yet this we have, divers Recitals in *E. 3d's* time, which sheweth, that they had some original Grant of Exemption. Pope *Boniface 8.* did grant to the University of *Oxford* a particular Exemption from all Archiepiscopal Jurisdiction; but I know well that there will be an Objection made, that the Pope did grant a Jurisdiction there. This Difference came before the King, and the King then did declare, That the Visitation did belong to the Arch-bishop of Right.

King. *What is that? Did the King declare that it did of right belong to the Arch-bishop to Visit there? that's very hard for you to answer.*

Thin.

Thin. I object thus against my self (to shorten the Case) for if I do not, they will.) This was in King *Rich. 2d's* time. The occasion was upon the Question touching *Wicliffe* his Case grounded upon a mistaking of the Law. Before that time there was never so much as a Challenge to Visit this University Metropolitically.

King. I will not grant that (*Mr. Serjeant*) that my Predecessor did mistake the Law, perhaps he was mis-informed of the Law.

Thin. Pardon me for the Phrase; the King was mis-informed as we conceive of the ancient usage and manner there.

King. You must suppose the King did know it.

Thin. The Arch-bishop was then a Potent Man in those days.

King. My Lord Arch-bishop doth not intend to Visit the Statutes of the University, nor of any particular College.

Arch-bishop. I do intend to Visit Metropolitically. I am to Visit, as I conceive, the Body of the University, and every Scholar that is in it, for his obedience to the Doctrine and Discipline of the Church of England; and this is the extent I intend, and not to meddle with the Statutes of Colleges or University, or particular Visitors of any College.

King. I do understand why you do not meddle with that, because it is my foundation.

Arch-bishop. I do suppose they do tell you of that which they will not make appear to be your foundation.

Thin. There was never since the first foundation of this University any Visitation made by any Arch-bishop; several have been made by the Kings themselves, but never by the Arch-bishop.

King. As I remember you did confess he did Visit once.

Thin. No, only an attempt to Visit was made by Arch-bishop *Arrundel*, who was resisted by the University. I will give up the Cause if he can ever find any Appeal of any Cause to the Arch-bishop of *Canterbury* from that University. I find it in *Fitz. N. Bre.* that the Chancellor of *Oxford* may certify an Excommunication. From whom had the Chancellor that Jurisdiction, but from the King? then those Acts are not to be Visited by any Power but by the King.

King. That is no good Inference, for every Bishop hath Power to Visit.

Thin. Since *de facto* the Arch-bishop did never Visit *Oxford*, but was ever Visited by Your Majesty, or by Commission from Your Majesty, and withal, their ancient Charters they have lost, which might (if they had them) shew their Priviledge; and since there is so memorable a Prescription in this Case for so many Hundred Years, we humbly desire (with Your Majesties Favour) to be still Visited by Your Majesty.

Arch-bishop. These Exemptions were not to be found in any Nunneries or Priories at the first Foundation; but as soon as ever they got any Money, they presently sent to *Rome* to get an Exemption, and then by that means the Bishops lost their Reputations, and so brought down the Jurisdiction of the Bishops, even at the Council of *Trent*; and *Spanish* Bishops have all plaid their Parts herein. And this is the Complaint of whole Christendome against the Council of *Trent*, of which, next to Purgatory, the Pope of *Rome* hath made his greatest advantage.

King.

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King. *I dare say the Pope doth as much to beat down Bishops as any Puritan I have in England doth.*

Arch-bishop. King H. 8. by Statute thrust out all, and whatsoever power the Pope had given in *England* by Bull, &c. all is gone at one blow by that Statute: Now I will show you a Bond from the University of 1000 *l.* that if they oppose my Jurisdiction then to be forfeit, I speak it upon my Reputation and Duty to Your Majesty. Ann. 1506. *Christ's College* was subject to the Bishops Visitation: I am able to show the very original *Deed* in H. 8th's time, where the University of *Cambridge* have submitted themselves to the Arch-Bishop, and here is the Original-Deed (which was read and showed to His Majesty) being a submission of the University to the Arch-Bishop, and to disclaim any right by Bull or the like. If I should have put them to have submitted upon this evidence, they would have said either for fear, or one respect or other, they had submitted to your Arch-Bishop without any hearing. Therefore not to put this upon either University, I got Your Majesty to hear it, if you have any thing to show for it, God forbid I should desire it if you have better evidence. If not, then I hope His Majesty will give me leave to carry it.

King. *Read the date of the Deed my Lord stands so upon* (which being read was dated 27 H. 8.)

Arch-bishop. So your Majesty may see before the Common-Law did take that away, they did submit themselves a year before. I will make it appear that the Arch-Bishop did visit *Cambridge* as in Metropolitcal right three whole years together, and that it is so expressed in the Act.

King. *They say that the Bishop was then a powerful man, and the times were troublesome.*

Bishop. They tell you indeed 20 R. 2. was a troublesome time, but of 12 H. 6. they do not tell you what a troublesome time that was.

King. *But was Cambridge visited three whole years?*

Recorder. It is true, we did continue it for three whole years. I did in the opening of it mention as much, that he did visit Ann. 1401. and did continue it till 1404, and that in the story of that time, he did it by a Metropolitcal right (as it is so mentioned) but how dangerous those times were, we have opened, and since that time never any such offer was made.

King's Attorney-General, Sir John Banks. May it please your Majesty, their main objections consists of Bulls. Now concerning any Bull or Exemption from the Pope, they are of no force, and though they here plead it verbally, yet they will not do it upon Record; for that Statute which bringeth them in a power, that Statute doth make all void: It is true, there is a saving of some that are confirmed under the Great-Seal, but they make no shew of them, so as clearly they are out of the exception of that Act of Parliament of 28 H. 8. Then they object, that the University is of the foundation of the King, and there the Bishop hath no Metropolitcal Visitation. 1 E. 6. The Deanry of *Wells* was dissolved, upon that a new Foundation, and E. 6. the Founder, and to him was the Donation of the Deanry; yet in that case it is expressly adjudged, that the Arch-Bishop in his Metropolitcal Visitation may visit the Deanry:

Deanry: It is true, he may not visit their Lands and local Statutes. It was further objected, there was no Visitation within these 200 years, and therefore a *Prescription* for it. But as to that no Civilian will allow, that any *Prescription* lieth against a Metropolitcal Visitation. I have looked upon the Statute, and I do find no particular exemption from any Jurisdiction that is Metropolitcal. They say further, that the Visitation made by *Peckham*, was by vertue of the *Legantine* Power, and the other Visitations are *de jure Metropolitico*.

12 Caroli.

King. They say that *Peckham* did visit as *Legatus Natus*.

Attorney. That is plain to be distinguished by the Records.

Arch-Bishop. In Cardinal *Pool's* Case, he doth visit by *Legantine* power (if he will use the stile of greater dignity than Arch-Bishop) Shall therefore that which he doth by the name of dignity lose his Power as Arch-Bishop?

Attorney-General. Divers Lord Treasurers, some have been Bishops of *Oxford* some of *Lincoln*, shall they lose their Power as Arch-Bishops? The Bishoprick of *London* hath not been visited these 200 years till now.

Dr. Duck. *Legatus Natus* hath only power to grant a Visitation; but to Visit, I do think they can never find that he ever had Power but Metropolitically.

King. The Question is whether *Legatus Natus* can visit as Legatee, and not as Arch-Bishop.

Recorder. I think he cannot; but only by vertue of his *Legantine* Power he might visit.

Bishop. *Legatus Natus*, and *Legatus a Latere*. The one Legate can visit, the other Legate cannot.

Recorder. We appeal to this Bishop *Arrundel* as *Legatus Natus*.

Arch-Bishop. I thank you for that Evidence, *Cambridge* did not oppose *Arrundel*, but *Oxford* did it. What if he were banished the Realm, he was banished for bringing in a Bull. In *E. 1*, & *E. 3* time it was common to send forth Proclamations against any that brought Bulls from the Pope.

Recorder. When this Question was between *Oxford* and *Arrundel*, there was an Order in Chancery for search for Bulls: and declared that this was against the Crown, and like to be the destruction of the University.

Arch-Bishop. What was done then in *R. 2's* time, which they say was so troublesome a time. Yet *H. 4.* did declare the very same judgment his Predecessor had done, and confirmed it by Act of Parliament, that it doth belong unto the See of *Canterbury*, as of right to visit the Universities, upon penalty of 1000*l.* upon every time that he should disobey, and a forfeiture of all their Priviledges, if they did disobey it. And I shewed a *Deed* under the Great-Seal, which the Council for the University did confess.

King. What can you say against this?

Recorder. I shall submit the Cause unto Your Majesties Judgment; for that which hath been urged of King *H. 4.* it is true, and they do declare that *de jure*, he ought to visit; it is true, it is so declared by Parliament, but this is only for *Oxford* and not for *Cambridge*. *Cambridge* is not so much as mentioned: My Answer is but this, It doth appear in the very Record it self, that the University

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of Oxford had got an exorbitant Bull from the Pope, to exclude all manner of People that countenanced Hereticks.

King. No, that cannot be.

Recorder. The Record it self saith it was gotten to countenance Hereticks and other Malefactors; they did oppose the Arch-Bishop *manu forti*. The State taking offence at this, thereupon there was a submission to the Judgement of R. 2. And thereupon he did declare, and H. 4. grounded his Judgement upon that the Bishop of right should visit, and H. 4. doth disanull the Bull as being against Law.

Lord Privy-Seal. There comes a Grant of later Kings, and takes notice of these Priviledges and Exemptions, and confirms and ratifies all such Priviledges as they do claim by any Charter or colour of any Bull.

Recorder. He doth confirm all Liberties or Grants. If my Lords Grace may visit the University, then he may visit the Chancellor; and of late time they have been persons of great Honour attending upon your Majesty, and so may be called away from your Majesty upon a Visitation to attend there.

Arch-Bishop. He may appear by Substitute.

Holland. If your Grace will visit, you may do it by Commission; the King can grant it.

Bishop. No, I desire to have my own Power.

And so the King adjudged it for the Arch-Bishop against himself; and permitted the Kings Attorney-General to plead for the Arch-Bishop against the King.

Some few passages more in way of Dialogue there were, but this is all taken in Characters at that time; but see for the Order of the King, and the Lords of the Council, upon this Hearing, at large in the Appendix.

July 8.
Star-Chamber
Sir Pierce Crosby
by to answer
Interrogatories.

A Warrant was on the 8th of July 1636 directed to Matthew Francis Esquire, one of His Majesties Serjeants at Arms, reciting, whereas Sir Pierce Crosby Knight and Baronet, standing charged with divers Crimes, by an Information at the suit of His Majesty's Attorney-General in the Court of Star-Chamber, for scandalizing the Lord Deputy of Ireland, doth withdraw himself from the usual place of his abode, so as the course of Justice by His Majesties Writs and Procefs cannot proceed against him; these are in His Majesties Name to Will and Command you, to make your present repair unto any place *priviledged or not priviledged*, where you shall understand of the said Sir Pierce Crosby his Being or Residence, and by vertue hereof to apprehend him, and to deliver him over to the Custody of one of the Messengers of His Majesties Chamber, to remain with him in safe Custody, until he shall have answered the said Information and Interrogatories against him; and in case of need these are in His Majesties Name, to Will and Command all His Majesties Officers, whom it may concern, to be aiding and assisting unto you herein, that thereof they may not fail, as they will answer the contrary at the Star-Chamber.

Likewise

12 Caroli.

For a Commission about Depopulation.

Likewise a Warrant was on the 9th of this month of *July* directed to the Clerk of the Crown, or his Deputy in His Majesties Name, His Majesties especial service to prepare several Commissions according to the form delivered unto him, to inquire touching Depopulations and Conversions of Lands to Pasture since the tenth year of Queen *Elizabeth*, in the Counties of *Oxford*, *Cambridge*, *Warwick* and *Nottingham*, directed to *Edward Savage* and *Edmond Windham*, two of the Gentlemen of His Majesties Privy-Chamber, and to *Gilbert Boon* of *Lincolns-Inn* Esquire, or any two of them.

By vertue of which Commission, and the terror of the Fine imposed in the *Star-Chamber*, on Sir *Anthony Roper* for committing Depopulations, there was brought into the Exchequer 30000*l.* and upwards——The like Commissions were granted into other Counties.

Whereas Complaints have been heretofore made, as well unto His Majesty King *James* in his life-time, and unto His now Majesty since His access to the Crown, and also to His Privy-Council, and the Justices of Assizes in their Circuits, and Justices of the Peace in sundry Counties at their Sessions, of the great deceits frequently used among Weavers, Combers, Spinsters, and other workers and makers of *Cloth* and *Yarn*, by the daily falsifying their *Yard*, as well in the length of the *Reel-Staff*, as in the number of *Threads*:

For Remedy and Reformation whereof, and for settling a constant course for the said *Reel*, and increase of the Poors Wages; It hath been thought fit, that the course of keeping the *Staff-Reel* may proceed and go on for the general good of the People; and that the Spinsters shall have for their Spinning and Reeling a penny increase, and Labourers imployed about the Trade of Cloathing and Yarn-making, shall have the increase of Wages. And for the establishing of the same, the King hath by *Letters Patents*, bearing date the 20th of *January* last past, ordained and appointed there be a constant *Reel* provided and kept by all and every Clothier, Weaver, Comber, Spinster, and other Workers and Makers of Cloth and Yarn, either Woollen or Linnen, and the *Reel-staff* to be one yard about the single *Reel*, and two yards about the double *Reel*, every Knot containing fourscore *Threads*.

HIS Majesty, the better to prevent the danger and increase of the present *Infection*, hath given several directions to the Lord Major of *London* and Justices of Peace, to prevent concourse of People; yet finding the *Plague* is dispersed in and about the City of *London* and *Southwark*, which if the Fairs of *Bartholomew* and Our *Lady* in *Southwark* should be held, might in all likelihood increase the Sickness; His Majesty therefore hath thought good, to require all His Subjects to forbear to resort this year to those Fairs. And doth enjoin the Lords and others interested in the same, that they do not hold the now next *Bartholomew* Fair.

July 9.
Letters Patents for the surveying and settling a constant Reel.

Jan. 20.

July 26.
The King prohibits the keeping of *Bartholomew-Fair* and our *Lady Fair* in *Southwark*.

An. 1636.

August 8.
1636.

The Lords of the Privy-Council writ this ensuing Letter to the Lord Major and Aldermen of the City of London.

WE have received by some of you the Aldermen a denial in the name of the City to Our late Letter, for the setting forth of Shipping for the present and necessary defence of the Kingdom, and the excuses which are made since, upon the like occasions; We cannot impute it truly to any thing but want of Duty. We do therfore in His Majesties Name, and by His commandment, require you to see the directions of Our said Letter performed upon your allegiance, and as you will answer the contrary at your perils. And so, &c.

August 11.

Afterwards there was presented to the Board a Petition from the Major and Commonalty of London, by Mr. Recorder, Sir William Cockin, and divers Aldermen and Commoners, desiring an abatement of the Twenty Ships rated upon the City, unto Ten Ships and Two Pinnaces, alledging want of ability, notwithstanding the absolute Declaration formerly given by the Board.

That the Case at this time might no farther be replied unto, Mr. Secretary Cooke, by Order of the Board, made answer to the effect following.

That the former Commandment given unto them, first, was necessary, because the Board knoweth that the preservation of the State did require it. Secondly, that the Charge required for the performance of the said Commandment was not immoderate for the whole City, which exceeded not the proportion of many of their private Estates. That to this Commandment Petitions and Pleadings were not to be received, which tend to the danger and prejudice of the Common-wealth. That as the Commandment was given to all in general, and to every Particular of the City, so the State would require an account Both of the City in general, and of every particular of the performance of it; for which purpose they had formerly received direction. And that whereas they mention Presidents, they should know that the Presidents of former times were obedience, and not direction. And that there were also Presidents of the punishment of those that disobey'd His Majesties Commandments signified by the Board, in the case of the preservation of the State, which they hope there should be no occasion to let them more particularly understand.

Ferdinando, Emperor of Germany, took a Resolution to settle the Empire in Peace after so bloody a War; and called a Dyet to meet at Ratisbone the midst of September, where the Emperors Son, already King of Bohemia, was proposed to be elected King of the Romans.

At which time the Earl of Arundel, Earl Marshal of England, was sent Ambassador to this new Emperor, to whom he presented the conditions of the Prince-Elector-Palatine his great sufferings; and

and the Ambassador endeavoured to prevail with the Emperor for his Restoration, which he hoped his now Imperial Majesty would be disposed unto: but all the Answer he could obtain of the Emperor was, that in time no doubt some consideration might be had of him for enjoying the lower Palatinate; but for the other it much concerned the Duke of *Bavaria*, who was in possession thereof: and that Duke declared himself, that what he had got with so much hazard of his Person, and expence of Treasure won by the Sword, he would now maintain with the same Power, he being in Possession. But the Ambassador being highly dissatisfied with the Emperors slight Answer, and indeed affront, retired for *England* without taking leave of the Emperor.

12 Caroli

W Hereas the Kings Majesty, out of His Princely care to the Health and Safety of His Subjects, and to prevent the danger that might arise to them by their resort to *London* or *Westminster* about the occasion of the Term, in times of Infection of the Plague there; did therefore, by His Proclamation dated the 6th of September last, signifie His Pleasure, That part of *Michaelmas-Term* next should be Adjourned, according to those Returns mentioned in that Proclamation, and then did think fit to Adjourn the same, as in the Proclamation is expressed.

2. Octob. 1636.
The King by
Proclamation
further Adjourneth Michaelmas-Term

See this at large in the Appendix.

This Year His Majesty sending His Writs for *Ship-money* into the In-land Counties, (which were not sent unto by the first Writ (that Writ going only to Maritime Towns;)) In this manner was the Distribution made.

Distribution of Ships to the several Shires of England and Wales, with their Tonnage, number of Men, and Charge, together with the Sum set on the Corporate Towns in each County.

	Tunns.	Men.	Charge.
B <i>Erkshire</i> one Ship of	400	160	4000 l.
Corporate Towns.	Town of <i>Windsor</i> ,		100.
	Town of <i>Wokingham</i> ,		050.
	Burrough of <i>Newbury</i> ,		120.
	Burrough of <i>Redding</i> ,		260.
	Burrough of <i>Abington</i> ,		100.
	Burrough or Town of <i>Wallingford</i> ,		020.

	Tunns.	Men.	Charge.
<i>Buckinghamshire</i> one Ship of	450	180	4500 l.
Corporate Towns.	Burrough of <i>Buckingham</i> ,		70.
	Burrough of <i>Chippingwickomb</i> ,		50.

Bedfordshire

An. 1636.

	Tunns.	Men.	Charge.
Bedfordshire one Ship of	300	120	3000 l.
Town of Bedford,			140.

	Tunns.	Men.	Charge.
Bristol one Ship of	100	040	1000 l.

	Tunns.	Men.	Charge.
Cornwall one Ship of	550	220	5500 l.

Corporate Towns.	Burrough of Saltash,	40.
	Burrough of Porthibam, alias Westlowe,	18.
	Burrough of Eastlow,	30.
	Burrough of Truroe,	70.
	Burrough of Penryn,	48.
	Town of Pensance,	28.
	Burrough of Padstowe,	70.
	Burrough of Liscard,	40.
	Burrough of Leastwithall,	20.
	Burrough of Cullington, alias Kellington,	20.
	Burrough of Tregonney,	33.
	Burrough of Grandport and Creede,	29.
	Burrough of Dunbevid, alias Launceston,	80.
	Town of Helston,	40.
	Burrough of Bossenna,	36.
Burrough of Bodmyn,	83.	
Burrough of Saint Mawes,	10.	
Burrough of Camelford,	10.	

	Tunns.	Men.	Charge.
Cambridgeshire one Ship of	350	140	3500 l.
Burrough of Cambridge,			100.

	Tunns.	Men.	Charge.
Cumberland & Westmorland one Ship of	140	056	1400 l.

Corporate Towns in Westmorland. Cumberland.	{ Burrough of Kerkby Kendall,	15.
	{ Burrough of Appleby,	05.
	City of Carlisle,	20.

	Tunns.	Men.	Charge.
Cheshire one Ship of	300	120	3000 l.
City of Chester,			260.

	Tunns.	Men.	Charge.
Devonshire one Ship of	900	360	9000 l.

Corporate

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Corporate Towns.	City of Exeter,	350.
	Burrough of Clifton Dartmouth, alias Hardnes,	80.
	Burrough of Totness,	120.
	Burrough of Plimpton,	35.
	Burrough of Plymouth,	190.
	Town and Parish of Tiverton,	130.
	Town and Manor of Bedford,	40.
	Burrough and Parish of Barnestaple,	150.
	Burrough and Town of Torington,	60.
	Burrough and Town of Oakehampton,	30.
	Burrough of Bradmintch,	50.
	Burrough of South Molton,	45.

Tunns. Men. Charge.

Darbyshire one Ship of ——— 350 ——— 140 ——— 3500 l.

Corporate Towns.	Burrough of Darby,	175.
	Burrough of Chesterfield,	50.

Tunns. Men. Charge.

Dorsetshire one Ship of ——— 500 ——— 200 ——— 5000 l.

Corporate Towns.	Town and County of Poole,	30.
	Burrough of Dorchester,	45.
	Burrough of Wareham,	25.
	Town of Weymouth, { and Melcombe-Regis. }	40.
	Burrough of Brideport cum membris,	20.
	Burrough of Corffe,	40.
	Burrough of Lyme-Regis,	40.
	Burrough of Shaftesbury,	35.
	Burrough of Blandfordforum,	25.

Tunns. Men. Charge.

Duresme one Ship of ——— 200 ——— 80 ——— 2000 l.
City of Duresme and Framwellgate, ——— 150.

Tunns. Men. Charge.

Essex one Ship of ——— 800 ——— 320 ——— 8000 l.

Corporate Towns.	Burrough of Thaxted,	40.
	Town and Parish of Walden,	80.
	Town of Colchester,	400.
	Burrough of Malden,	80.
	Burrough of Harwike,	20.

Tunns. Men. Charge.

Gloucestershire one Ship of ——— 550 ——— 220 ——— 5500 l.

Corporate Towns.	City of Gloucester and County thereof,	500.
	Burrough of Tewksbury,	60.
	Burrough of Chipping-Campden,	20.

Hampshire

An. 1636.

	Tunns.	Men.	Charge.
<i>Hampshire</i> one Ship of	600	240	6000 l.
Corporate Towns.	Burrough of <i>Portsmouth</i> ,		60.
	Town of <i>Southampton</i> ,		195.
	City of <i>Winchester</i> ,		190.
	Burrough of <i>Andover</i> ,		50.
	Town of <i>Romsey</i> ,		30.
	Town of <i>Basingstoke</i> ,		60.

	Tunns.	Men.	Charge.
<i>Herefordshire</i> one Ship of	350	140	3500 l.
Corporate Towns.	City of <i>Hereford</i> ,		220.
	Burrough or Town of <i>Leompster</i> ,		44.

	Tunns.	Men.	Charge.
<i>Hertfordshire</i> one Ship of	400	160	4000 l.
Corporate Towns.	Burrough of <i>Hertford</i> ,		55
	Burrough of <i>St. Albans</i> ,		120.
	Burrough of <i>Barkhamstead</i> ,		25.

	Tunns.	Men.	Charge.
<i>Huntingtonshire</i> one Ship of	400	80	2000 l.
Corporate Towns.	Burrough of <i>Huntington</i> ,		50.
	Burrough of <i>Godmanchester</i> ,		80.

	Tunns.	Men.	Charge.
<i>Kent and Cinque-Ports in Kent</i> one Ship of	800	320	8000 l.

Corporate Towns.	City of <i>Canterbury</i> , besides the Church, and Members thereof,	300.
	Town and Port of <i>Dover</i> , and Members thereof,	330.
	Port and Town of <i>Sandwich</i> , and Members thereof,	250.
	Town and Port of <i>Hythe</i> ,	40.
	Town and Port of <i>New Romney</i> , and Members,	180.
	<i>Ofwalston</i> and <i>Tenderden</i> ,	90.
	Burrough of <i>Queenborough</i> ,	10.
	Town and Parish of <i>Maidstone</i> ,	160.
	<i>Cranbrooke</i> ,	200.
	Town of <i>Gravesend</i> together with <i>Milton</i> ,	40.
	City of <i>Rocheſter</i> ,	80.

	Tunns.	Men.	Charge.
<i>Lancashire</i> one Ship of	400	160	1000 l.

Corporate Towns.	Burrough or Town of <i>Preston</i> ,	40.
	Town of <i>Lancaster</i> ,	30.
	Town of <i>Liverpoole</i> ,	25.
	Town of <i>Wigan</i> ,	50.
	Town of <i>Clethrowe</i> ,	7 l. 10 s.
	Town of <i>Newton</i> ,	7 l. 10 s.

Leicester.

	Tunns.	Men.	Charge.
Leicestershire one Ship of	450	180	4500 l.
Burrough of Leicester,			200.

	Tunns.	Men.	Charge.
Lincolnshire one Ship of	800	320	8000 l.

	Tunns.	Men.	Charge.
Corporate Towns. { City of Lincoln and Liberties,		193 l.	6 s. 8 d.
{ Burrough of Boston,			70.
{ Burrough of great Grimsby,			15.
{ Town or Burrough of Stamford,			60.
{ Town or Burrough of Grantham with the Soke,			200.

	Tunns.	Men.	Charge.
London two Ships, each of	700	280	14000 l.

	Tunns.	Men.	Charge.
Middlesex one Ship of	500	200	5000 l.
City of Westminster and Liberties,			1180.

	Tunns.	Men.	Charge.
Monmouthshire one Ship of	150	60	1500 l.
Corporate Towns. { Burrough of Monmouth,			40 l.
{ Burrough of Newport,		23 l.	9 s. 9 d.

	Tunns.	Men.	Charge.
Northamptonshire one Ship of	600	240	6000 l.
Corporate Towns. { Town of Northampton,			20.
{ Burrough and Parish of Higham-Ferres,			36.
{ City of Peterborow,			120.
{ Burrough of Daventry,			50.
{ Burrough of Brackley,			50.

	Tunns.	Men.	Charge.
Nottinghamshire one Ship of	350	140	3500 l.
Corporate Towns. { Town of Nottingham,			200.
{ Town of Newark upon Trent,			120.
{ Town of East Retford,			30.

	Tunns.	Men.	Charge.
Northumberlandshire one Ship of	210	84	2100 l.
Corporate Towns. { Town of Newcastle upon Tyne,			700.
{ Burrough of Barwick upon Tweed,			20.
{ Town of Morpeth,			20.

	Tunns.	Men.	Charge.
Norfolk one Ship of	780	316	7800 l.
Corporate Towns. { City of Norwich,			500.
{ Burrough of Kings-Lynne,			300.
{ Burrough of Great Tarmouth,			220.
{ Burrough of Thetford,			30.
{ Burrough of Castlerising,			10.

An. 1636.

		Tunns.	Men.	Charge.
	<i>Oxfordshire</i> one Ship of	350	140	3500 l.
<i>Corporate Towns.</i>	{ <i>City of Oxon,</i>			100.
	{ <i>Town of Burford,</i>			40.
	{ <i>Burrough or Town of Chippingnorton,</i>			30.
	{ <i>Town of Henly upon Thames,</i>			60.
	{ <i>Burrough of Woodstocke,</i>			20.
	<i>Rutlandshire</i> one Ship of	80	32	800 l.
	<i>Somersetshire</i> one Ship of	800	320	8000 l.
<i>Corporate Towns.</i>	{ <i>Burrough of Bridgwater,</i>			70.
	{ <i>Burrough of Minhead,</i>			60.
	{ <i>City of Bath,</i>			70.
	{ <i>City or Burrough of Wells,</i>			60.
	{ <i>Burrough of Axbridge,</i>			30.
	{ <i>Burrough of Taunton,</i>			100.
	{ <i>Burrough of Iwelcheſter,</i>			30.
	{ <i>Burrough of Langport Eſtover,</i>			20.
	<i>Town of Yeovill,</i>			30.
	<i>Surrey</i> one Ship of	350	140	3500 l.
<i>Corporate Towns.</i>	{ <i>Town of Guilford,</i>			53.
	{ <i>Burrough of Southwark,</i>			350.
	{ <i>Town of Kingſton on Thames,</i>			88.
	<i>Suffex</i> one Ship of	500	200	5000 l.
<i>Corporate Towns.</i>	{ <i>Town and Port of Haſtings, with the Members thereof,</i>			250.
	{ <i>City of Chicheſter,</i>			150.
	{ <i>Burrough of Arundel,</i>			20.
	{ <i>Burrough of Shoreham,</i>			10.
	<i>Suffolk</i> one Ship of	800	520	8000 l.
<i>Corporate Towns.</i>	{ <i>Town of Ipſwich,</i>			240.
	{ <i>Burrough of Orford,</i>			
	{ <i>Burrough of Alborough,</i>			8.
	{ <i>Town of Dunwich,</i>			4.
	{ <i>Town of Southwold,</i>			8.
	{ <i>Town of Hadleigh,</i>			120.
	{ <i>Town and Burrough of Eye,</i>			30.

Staffordshire

Staffordshire one Ship of ——— Tunns. Men. Charge.
300 — 120 — 3000 l.

Corporate Towns. { City of Litchfeild, ——— 150.
Burrough of Stafford, ——— 30.
Burrough of Newcastle under Lyne, ——— 24.
Burrough of Walsall, ——— 32.

Shropshire one Ship of ——— Tunns. Men. Charge.
450 — 180 — 4500 l.

Corporate Towns. { Town of Shrewsbury, ——— 456 l. 10 s.
Town of Bridgenorth }
alias Bruges, } ——— 51 l. 10 s.
Burrough of Ludlowe, ——— 102.
Burrough of Bishopscastle, ——— 15 l. 10 s.
Burrough of Oswestry, ——— 51.
Town, Burrough, and }
Liberty of Wenlock, } ——— 302.

Warwickshire one Ship of ——— Tunns. Men. Charge.
400 — 160 — 4000 l.

Corporate Towns. { City and County of Coventry, ——— 266.
Burrough of Warwick, ——— 100.
Town or Burrough of Brimingham, ——— 100.
Town of Sutton-Colefeild, ——— 80.
Burrough of Stratford on Avon, ——— 50.

Worcestershire one Ship of ——— Tunns. Men. Charge.
350 — 140 — 3500 l.

Corporate Towns. { City of Worcester, ——— 233.
Burrough of Evesham, ——— 74.
Burrough of Bewdly, ——— 62.
Burrough of Droitwich, ——— 62.
Town or Burrough of Kidderminster, ——— 27.

Wiltshire one Ship of ——— Tunns. Men. Charge.
700 — 280 — 7000 l.

Corporate Towns. { City of New Sarum, ——— 240.
Burrough and Town }
of Marleborough, } ——— 100.
Burrough of Devises, ——— 50.
Burrough of Chippenham, ——— 30.
Burrough of Wilton, ——— 5.

Yorkshire Two Ships ——— Tunns. Men. Charge.
600 — 240 — 12000 l.

An. 1636.

Corporate Towns.	City of York with the Ansty,	520.
	Burrough of Ripon,	40.
	Burrough of Doncaster,	100.
	Burrough or Town of Pontefract,	60.
	Burrough of Richmond,	50.
	Burrough of Leedes,	200.
	Town of Headon,	20.
	Town of Beverly,	57.
	Town of Scarborough,	30.
	Town of Kingston upon Hull.	140.

North-Wales one Ship of Tunns. 400 Men. 160 Charge. 4000 l.

Corporate Towns.	County of Denbeigh,	768.
	Burrough of Denbeigh,	32.
	Town of Ruchyn,	194.
	Town of Holt,	10.

County of Flint, 848.
Town of Flint, 16.

County of Carnarvan, 728.
Town and Burrough of Carnarvan, 10.

County of Anglesey, 448.
Burrough of Beaumarris, 14.

County of Montgomery, 833.
Burrough of Montgomery, 12.

County of Merioneth, 416.

South-Wales one Ship of Tunns. 500 Men. 200 Charge. 5000 l.

County of Glamorgan, 449.
Town of Cardiffe, 60.
City of St. Davids, 13.

County of Carmarthen, 760.
Burrough of Carmarthen, 50.
Burrough of Kidwell, 44.

County of Pembroke, 713.
Burrough of Pembroke, 10.
Town of Haverfordwest, 65.

County of Radnor, 290.
Burrough and Liberty of New-Radnor, 6.
Town of Restinge, 28.

County

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County of Brecknock, ————— 933.
Burrough of Brecknock, ————— 54.

County of Cardigan, ————— 654.
Town of Cardigan, ————— 10.

The Reader is desired to pardon any mistake of the Sums of the *Welch* Counties; for the Copy given to the Printer was so obscurely writ, that perhaps some mistake is therein committed.

Nota.

THe heavy Judgment of God in his present *Visitation* in the Cities of *London* and *Westminster*, and divers other parts of the Kingdom at this time with the Pestilence, ought to move Us to acknowledge the immediate Hand of God therein, for the sins of this Land, thereby to afflict and correct his People.

18. Octob. 1636. The King commands a general Fast to be weekly observed throughout the Realm of England by reason of the Pestilence.

And His Majesty having taken into His Religious Care, that in common Calamities the special means to remove evil is by serious humiliation to implore the Grace and Favour of that Supreme offended Majesty who can only heal it, hath thought fit to command a general and publick *Fast* be held through the whole Realm, in such manner as in His Proclamation is directed.

Which see more at large in the Appendix.

Instructions from His Sacred Majesty to the Arch-bishops and Bishops of Scotland.

Charles Rex,

That you advert, that the Proclamation for authorizing the Service-Book, derogate nothing from Our Royal Prerogative.

That in the *Kalendar* you keep such *Catholick Saints* as are in the *English*; that you pester it not with too many, but such as you insert of the peculiar Saints of that Our Kingdom, that they be of the most approved; and here to have regard to those of the Blood-Royal, and such Holy Bishops in every See most renowned; but in no case omit *St. George* and *Patrick*.

That in your Book of Orders, in giving Orders to Presbyters, you keep the words of the *English* Book without change, Receive the Holy Ghost, &c.

That you insert amongst the Lessons ordinarily to be read in the Service, out of the *Book of Wisdom* the 1, 2, 3, 4, 5, and 6. Chapters, and out of the *Book of Ecclesiasticus* the 1, 2, 5, 8, 35, and 49. Chapters.

That every Bishop within his own Family twice a day cause the Service to be done; and that all Arch-bishops and Bishops make all Universities and Colleges within their Diocesses to use daily twice a-day the Service.

That

Charles Rex,
was the
chief
move
all
Popish
ceremonies
moving the
Communion
Table &c.

An. 1636.

‘ That the *Preface* to the Book of Common-Prayer Signed by
 ‘ Our Hand, and the *Proclamation* authorizing the same, be Printed
 ‘ and Inserted in the Book of Common-Prayer.

Given at *New-Market* the 18th day of *October* 1636,
 and of Our Reign the 11th.

Present,

The King's Most Excellent Majesty.

Lord Arch-bishop of *Canterbury*,Earl of *Dorset*,Lord *Keeper*,Earl of *Salisbury*,Lord *Treasurer*,Earl of *Berks*,Lord *Privy-Seal*,Lord *Goring*,Lord Duke *Lenox*,Mr. *Treasurer*,Lord Marques *Hamilton*,Mr. *Comptroller*,Lord *Great Chamb.*Mr. Secretary *Windebanck*,Lord *Admiral*,Lord Chief-Justice of the *Com-*Lord *Chamberlain*,*mon-Pleas.*

Sir William
Ruffel Treasu-
 rer of the
 Navy his Ac-
 count for the
 Year 1636.

This day was presented to their Lordships the several Accounts
 following, the same having been by directions from their Lord-
 ships Examined and Audited by *George Bingly* Esq; one of His
 Majesties Auditors of the Imprests.

First, the Account of Sir *William Ruffel* Knight and Baronet,
 Treasurer of his Majesties Navy, as well of what Monies he hath
 received upon His Majesties Writs issued forth *Anno* 1636. as also
 what he hath issued and expended, in setting forth to Sea in War-
 like manner fundry of His Majesties Ships imployed to Sea the
 Summer following, the Year being the 1637. for the safeguard of
 the Seas, and defence of this Kingdom; the Abstract whereof fol-
 loweth.

The Charge.

Arrearages depending upon the last Ac-
 count to be answered by fundry She-
 riffs. } 005560 l. 04 s. 07 d.

Money charged upon several Sheriffs this
 year 1637. and to have been by them
 received and paid. } 196400 l. 00 s. 00 d.

Monies abated out of several Bills paid to fe-
 veral Persons, and here charged, the full
 Bills being allowed by this Accountant. } 000265 l. 10 s. 00 d.

Received of Sir *John Heydon* Kt. Lieutenant
 of His Majesties Ordnance, collected by
 him out of the Trinity Minorites. } 000014 l. 07 s. 08 d.

£ 202240 l. 02 s. 03 d.

The total Sum
 of Ship-mo-
 ney for the
 Year 1636.

The

The Discharge.

The Surplusage of the last Account due to this Accountant.	16107 l. 06 s. 10 d. qu.
Prest Conduct, and Presting Charges of Souldiers, Mariners, Seafaring-men, and others for His Majesties Service.	00022 l. 14 s. 04 d.
Emptions and Provisions of Planks, Timber, and other Materials.	14279 l. 16 s. 00 d.
Carriage by Land and Water of the said Provisions, and other Materials.	01884 l. 04 s. 00 d.
Litherage and Boat-hire for Officers, Work-men, and others.	00039 l. 19 s. 09 d.
Wages and Entertainment of Ship-wrights, Calkers, Labourers, and Sea-men.	18845 l. 08 s. 09 d.
Purveyance of fundry Provisions, as Timber, Planks, Tree-Mails, and other Materials.	02932 l. 2 s. 10 d. ob. qu.
Pilotage of fundry of His Majesties Ships, and others, imployed in His Majesties Service.	00277 l. 02 s. 00 d.
Sea-Victuals of Men serving in the <i>Richard</i> and <i>Mary</i> of <i>London</i> , a Merchants Ship, imployed in His Majesties Service.	00954 l. 18 s. 00 d.
Freight of Ships belonging to Merchants, and others imployed as before.	21299 l. 10 s. 09 d.
Travelling-Charges of fundry Persons imployed in His Majesties Service, concerning His Ships sent to Sea.	01073 l. 02 s. 02 d.
Hire of a Store-house near <i>St. Saviours-Dock</i> , for fitting and Rigging the <i>Providence</i> there.	00042 l. 00 s. 00 d.
Task-work performed by divers and fundry Persons, Artificers, Work-men, Labourers, and others.	06299 l. 06 s. 10 d.
Rewards to fundry Persons imployed in His Majesties Service, concerning the Ships sent to Sea.	00781 l. 07 s. 06.
Sea-wages of the L. General Admiral, Vice-Admiral, Captains, Masters of Ships, Lieutenants, Souldiers, Sea-men, and others.	20008 l. 06 s. 04 d.
Interest-Money paid for Monies advanced by <i>Sir Paul Pindar</i> , and others, for Six Months Payment of Sea-men, discharged by Warrants of the Lords of the Privy-Council, Lord Treasurer, Lord Cottingham.	01010 l. 00 s. 00 d.
Monies Imprest upon Account, viz. of <i>Sir John Heydon</i> Knight, Lieutenant of the Ordnance 20 m. 9 s. 11 d. to <i>John Crane</i> Esq; Surveyor of the Marine Victuals 30 m. 15 l. 11 s. 6 d. and to fundry other Persons for the Service of the Ships 580 l. 16 s. 2 d. in all	56511 l. 10 s. 07 d.

Allow-

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Allowance of 3 *d.* in the Pound for all the
said Payments, except the Monies paid
to the said Lieutenant of the Ordnance,
Surveyor of the Marine Victuals.

196166 *l.* 6 *s.* 5 *d.* ob. *qu.*

And so there remains due to His Majesty
the Sum of

Arrearages to
be answered
by fundry
Sheriffs.

In the Year ended the last *December* 1635.

In the Year ending the last *December* 1636.

In the Year ended the last *December* 1637.

006073 *l.* 15 *s.* 09 *d.* ob.001023 *l.* 11 *s.* 03 *d.*004536 *l.* 12 *s.* 04 *d.*006907 *l.* 06 *s.* 04 *d.*012467 *l.* 10 *s.* 11 *d.*

And then there is a Surplusage due to this
Accountant.

006293 *l.* 15 *s.* 1 *d.* ob. *qu.*

Next the Account of *John Crane Esq;* Surveyor-general of the
Victuals for the Marine Causes, for victualling of His Majesties
Ships imployed in the Year 1637. as aforesaid for the safeguard of
the Seas, and defence of the Realm; an Abstract whereof is as
followeth.

The Charge.

Monies respectuated in the foot of the last
Account for Cask and Bisket-Baggs, which
fundry Purfers and Cooks ought to have re-
turned for His Majesties Service, but con-
verted them for their own private benefit.

00543 *l.* 07 *s.* 04 *d.*

Monies depending upon divers Purfers for
remains of Victuals, at the return of His
Majesties Ships from Sea in the Year 1636.

Remains of Victuals the Year 1637.

00930 *l.* 12 *s.* 06 *d.*

And received of Sir *William Russel* Knight
and Baronet, Treasurer of His Majesties
Navy,

30905 *l.* 11 *s.* 06 *d.*

Sum-total of the Charge 32895 *l.* 15 *s.* 09 *d.*

The Discharge.

The Surplusage of the last Account due to
this Accountant.

06412 *l.* 03 *s.* 08 *d.*

Harbrough Victualling of several Men ser-
ving in divers of His Majesties Ships
this Year 1637.

03115 *l.* 15 *s.* 00 *d.*

Victualling

Victualling of four of His Majesties Ships
designed for *Salley*, with encrease of
price of Beer, and Port-Beer, and Bisket
for the Admiral. } 4907 l. 08 s. 00 d.

Other extraordinary allowances for Cask,
Bisket-Bags, &c. } 751 l. 07 s. 01 d. 06.

Sum total of the discharge, 34007 l. 05 s. 06 d. 06.

And so the Accountant is in surplufage. 1111 l. 09 s. 09 d. 06.

Unto which is further added for monies
depending on divers Purfers and Cooks
of fundry of His Majesties Ships for
remains of Victuals, Cask, Bisket and
Baggs which they ought to have return-
ed for His Majesties service, but con-
verted them to their private benefit. } 2300 l. 09 s. 10 d.

And then he is in surplufage 2224 l. 19 s. 07 d. 06.

Their Lordships having considered and approved of the said Ac-
counts, did this day Sign the same, and Order that one of each of
the said Officers Accounts being signed by their Lordships, should
be forthwith sent into the Pipe-Office, one other of each should
remain with His Majesties said Auditor, and a third be delivered to
each of the said Accountants respectively. And that an Abstract
or Brief-state of each Account should be entred in the Coun-
cil-Book. And as concerning the surplufage due to each of the
said Accountants (as by their said several Accounts appeareth)
It was Ordered that the same should be allowed by the Auditor
upon their next Accounts respectively, for the Year 1638. where-
of as well the Auditor as each of the said Officers Accountants
were to take notice and to see the same duly performed accordingly.

The said several Accounts were this last of May 1640. Signed
by

Lord Arch-Bishop of <i>Canterbury</i> .	Earl of <i>Salisbury</i> .
Lord <i>Keeper</i> .	Lord <i>Keeper</i> .
Lord <i>Treasurer</i> .	Mr. <i>Comptroller</i> .
Lord <i>Privy-Seal</i> .	Mr. Secretary <i>Windebanck</i> .
Lord <i>Chamberlain</i> .	Lord Chief Justice <i>Littleton</i> .
Earl of <i>Dorset</i> .	

A Warrant to Sir William Russell Knight and Baronet, and
Henry Vane Esquire, Treasurers of His Majesties Navy. May ult. 1640.

Whereas by Our Letters of Instructions of the first of Decem-
ber last, sent with His Majesties Writs to the Sheriffs of
the several Counties in the Kingdom, it is expressed, that there
should be an allowance of six-pence in the pound given to every

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Sheriff, when the full sum charged on his County should be paid in to you the Treasurers of His Majesties Navy: These shall be therefore to Will and Require you to make such an allowance of six-pence in the pound to all High-Sheriffs of Counties, as to Majors or Chief Officers of Corporations within the same, that either have already paid, or shall hereafter pay in the full sum, charged upon every of them respectively for the said service, taking several receipts for the same, under the hands of the said Sheriffs and head Officers, or such as they shall imploy, for which you are to have allowance in your Account; for which this shall be a sufficient Discharge and Warrant, as well to you as to the Principal Officers and Commissioners of the Navy, for passing those receipts in your Accounts, and to His Majesties Auditor to allow thereof. *Dat. ultimo Maii 1640.*

In Camera Stellat' coram Concilio ibidem vicesimo quinto die Januarij Anno Decimo Caroli Regis.

Transporting
of Fullers-
Earth.

THIS day was brought unto this Bar, *John Ray* of London Merchant, against whom *Sir John Banks* Knight, His Majesties Attorney-General, did inform *Ore tenus* on his Highness behalf, that the said *Ray* had committed several great offences worthy the Censure of this Court, which would appear by several examinations taken of him, whereunto his Name was subscribed, which His Majesty's said Attorney prayed might be shewed unto him the said *Ray*, and read in the Court; and that thereupon the Court would impose such a Censure on him for his said Offences, as their Lordships in their great wisdoms should hold fit. Whereupon the said Delinquent's several examinations were shewed, being by him acknowledged, they were openly read in the Court, and were as followeth: The Examinant having shewed unto him a Letter to my loving Friend *Mr. Henry Baldroe* Merchant at *Mr. James Deckwers* house in *Rotterdam*, beginning thus; *Quinborow the 4th 1630. Mr. Baldroe according to your Letters, &c. and ending thus, and so I rest your loving Friend,* and subscribed *John Ray*. He saith that it is his hand-writing; being demanded what the Commoditie was whereof in the Letter is mentioned; he saith the Commodities were Fullers-Earth, for he saith that near about that time, he sent from *Rocheſter* into *Holland* threescore and sixteen loads of Fullers-Earth to *Henry Baldroe* a *Norfolk-man*, that resides at *Rotterdam*. He sayeth also that the Fullers-Earth was bought by a man of *Leyden* in *Holland* who paid the Examinant for the Fullers-Earth after the rate for four *Gilders*; he saith that he bought the Fullers-Earth of one *Richard Rods* of *Maidstone* at the rate of six Shillings the load, besides twelve-pence to *Litherman*.

This Fullers-Earth was loaden in the Ship called the *Hope for Grace*, whereof *John Coldee* was Master from *Rocheſter*. Being demanded whether those Goods were entred in the Custom-House, he saith that they were entred for the Port of *Lynn*, as he remembreth, and a Port-coquet was made accordingly. Being demanded who were bound for the discharge at *Lynn*, and for bringing a Certificate,

Certificate; saith that himself and the Master were bound, but what Certificate was procured he knows not, nor from whence. And there was one Custom paid for the Fullers-Earth, but assured he is, that it was landed in *Holland*. He saith that he shipped this Earth within seven or eight days, before the birth of Prince *Charles*, His Majesty's Son; and he remembreth it better, for that while he was at *Rocheſter*, Bonfires in token of joy of His Birth were made; and it was shortly after His Majesties Proclamation, inhibiting transportation of Wooll and Fullers-Earth. But he saith he cannot tell whether he had notice of the Proclamation or not? But he well knew that he intended to take benefit of His Majesties gracious Pardon granted forth about that time. He also saith that since that time he hath not shipped any Fullers-Earth, but about six years past he shipped over some other Fullers-Earth, all which matters being contained in his first examination, he confesseth in his further examination taken by His Majesties now Attorney-General as true; and also saith, that *Robert Cosens* of *Horsely-down* about a year since transported four or five Barques loading of Fullers-Earth to *Skeedam* in *Holland*, and there sold it; and that a Plumber in *Tower-street*, and a Plumber in *Rocheſter*, whose names he knows not, were secret at the Custom-House, that the said Fullers-Earth should not be transported. Upon grave and deliberate consideration whereof, the Delinquent being now at the Bar, who was demanded by their Lordships what answer he could make thereunto for his defence or extenuation of his Offence; the whole Court was of opinion, and did declare, that the said Delinquent *John Ray* had committed (as appears by his own examination) two several offences both of great consequence and of a high nature, in transporting of Fullers-Earth out of this Kingdom, contrary to His Majesties Proclamation, whereby he did what in him lay to rob the Kingdom of the Trade and Manufacture of making Cloth, which is the support and livelihood of a very great number of the Poor sort of People of this Realm, and deceiving His Majesty of the Customs by colour of a Port-Coquot, which he gained to colour his deceit, and to carry away the said Fullers-Earth with security; both which Offences as they are of a high nature, so in their Lordships Opinions they deserved a very sharp, severe and exemplary punishment; and therefore the whole Court, and all the Honourable Presence there sitting, have with an unanimous consent, thought fit, ordered, adjudged and decreed that the said *John Ray* shall, for his Offences aforesaid, stand and be committed to the Prison of the *Fleet*, there to remain during His Majesties pleasure; and that if His Majesty shall at any time hereafter be graciously pleased to enlarge the said Defendant, it is then Ordered and Decreed, that before such his enlargement, he shall become bound with good Sureties for his good behaviour hereafter: and it is withal Ordered and Decreed, that the said *John Ray* shall pay a Fine of 2000 *l.* to His Majesty's use, and shall also be set in the Pillory, with a Paper on his Head, declaring the nature of his Offences, to the end others may by his Example be deterred from daring to commit the like Offences hereafter.

12 Caroli.

The Sentence
of the Court.

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Feb. 7.
Hill. Term.Defendants
sentenced in
Star-Chamber
for Transport-
ing of Gold

*In Camera Stellat' coram Concilio ibidem Decimo Septimo die
Februarii, Anno Domini Caroli Regis 12.*

THis day came to be heard the Matter of Complaint exhibited into this Court by Sir *John Bankes* Knight, His Majesties Attorney-General, Plaintiff against *Henry Fluter, Henry Sweeting, Peter Hern, John Terry, Arnold Brames, Isaac Gold, Randal Crew, Francis Brogden, Luke Lee, Timothy Eman, John Perryn* and *Edward Vaghan*, for transporting of Gold and Silver out of this Kingdom into Foreign parts, and for culling out the weightiest Mony, and for melting down His Majesties Coyn into *Bullion*, and giving above the prices of His Majesties Mint for Gold and Silver (as by the said Information more at large, it doth and may appear.) In the Opening and Prosecution of which Cause, His Majesties said Attorney informed the Court, that in pursuance of their Lordships Order at Council-Board, he did before Issue joyned in this Cause, enter a Rule, that he would not at this time proceed in the Examination of any Witnesses, touching the buying of Gold and Silver above the price appointed to be given at His Majesties Mint, but reserve that part of the Cause to be Examined, Heard and Considered of hereafter, if their Lordships should think fit. Thereunto their Lordships again consented, holding it most meet so to be done. And upon full and deliberate hearing of the other matters complained of against all the before-named Defendants, except *Francis Brogden*, whom His Majesties said Attorney did not now proceed against by direction of this Court, in respect he was gone beyond the Seas before his Cause was set down to be heard, and was not yet returned, as was verified by Oath. It appeared that notwithstanding His Majesty out of His Princely Care for the good of His Subjects, foreseeing the dangerous consequences, which would ensue the transportation of Gold and Silver out of this Kingdom, did by His Proclamation and Articles *Vicessimo quinto Maij tertio Caroli*, Prohibit and Command, that no Person should then after without His Majesties License, Transport, Carry and Convey out of this Realm any Gold or Silver, either in Coin, Plate, Vessels, Jewels, Gold-Smiths-work, Bullion or other Mass, or otherwise whatsoever. And that no Person should Aid, Assist, Counsel, or any ways Partake, or Consent with any other Person, purposing or attempting to Transport, Carry or Convey out of this Realm any Gold or Silver, in any Species or Kind as aforesaid, either by gathering or getting together such Gold or Silver, or by packing up the same fit for Transportation, or Conveying the same to or towards any Port, Haven, or other place of Exportation, or by any other way or colour. And that no Goldsmith, Finer, or Parter, or other Person whatsoever, of what Mystery, Trade, or Quality soever, should melt, or cause to be molten any Gold or Silver Coins, which were then, or hereafter should be the Currant Monies of any His Majesties Realms or Dominions, either to make Plate, Vessel, or for any other Manufacture or Use, or should cull or sort from the rest any the weightier Monies, to the intent to convey the same out of this Realm, or

to

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to otherwise alter it from Coin, the same being also contrary to divers Laws and other Proclamations: yet the said Defendant *Henry Sweeting*, between the month of *April* 1629, and the month of *June undecimo Caroli*, did send the sum of fifteen hundred pounds to *Dover* by a Foot-Post, and willed him to send the same over to *Callis*, to one *John Lovell*, a Merchant there; which he did according to the said *Sweeting* his directions. And the said Defendant *Peter Hern*, within the space of two or three years last past, sent by the said Foot-Post to *Dover* about 3000 *l.* to one *Nathaniel Pringall*, who as himself confessed, sent the same over to *Callis* in *France*; and the said *Hern* (as himself also confessed to one of the Witnesses (whose Testimony was now read) at another time sent 500 *l.* to *Callis* to one *Isaac Lamews*. And the said Defendant *John Terry* sent up one *Rainger* a Foot-Post 200 *l.* to one *John Wallopp* of *Dover*, who at that time shewed the said *Rainger* a Letter from the said *Terry*, to him the said *Wallopp*, to send the said two hundred pounds to one *Peter Pool* at *Callis*, which the said *Wallopp* did, and accordingly as he afterwards told the said *Rainger* and the said *Terry* about three or four years since, sent one hundred and fifteen pound more to the said *Wallopp* to *Dover*, who sent the same to *Callis* to the said *Peter Pool*, as he was directed. And the said *Arnold Brames* (as himself confesseth) hath within seven years last past sent divers quantities of Foreign Coin and Bullion into *France*, *Flanders*, and other Foreign Parts to coyn in Baggs, and the Bullion which came from *Spain*. It likewise plainly appeared to this Honourable Court, the Defendant *Timothy Eman*'s constant course, from the year of our Lord God 1621, until the year of 1631, was to receive Merchants mony, and then to employ his Servants to Cull and Sort out by the Ballance, the heaviest Shillings and Sixpences, and afterward sold them by the Ounce, and thereby made three pound in the hundred profit, it being usual to find 14, 15, 16 *l.* or more heavy in 100 *l.* and in the year 1628, 1629, 1630, 1631, the said Defendant caused his Servants to cull 500000 *l.* a year, which did produce 7, or 8000 *l.* yearly heavy mony, which in part he melted down into Ingots, and so sold them, and the greatest part he sold unmelted to the value of 20000 *l.* and the said Defendant was also furnished by divers several persons with heavy cull'd English-mony, to whom he gave sometimes two Shillings and sometimes three Shillings in a hundred pound to have the Culling thereof; and the said Defendant *Eman*, from the year 1621, or 1622, to the year 1626, did melt down 5000 *l.* and from 1626 to the year 1631 he did melt down 15000 *l.* and had profit out of the said mony so melted down amounting to above 1000 *l.* and the Defendant *Henry Futter* did buy and gather together light Gold, and did furnish one *Violet* with 1000 *l.* of light Gold, beyond the Allowance of great Rates, knowing he either bought it either to transport himself, or to furnish Transporters therewithal. And the Defendant *John Perryn* (as himself confesseth, and is proved against him) bought certain quantities of heavy English Coyn, and melted the same into Bullion.

Upon grave and deliberate consideration of all which matters, the Court did declare and adjudge the said Defendants, *Henry Sweeting*, *Peter Hern* and *John Terry* guilty of Transportation of English

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English Gold, and the Defendant *Arnold Brames* of Transportation of Foreign Coin and Bullion, into such several parts beyond the Seas, the Defendant *Timothy Eman* of Culling out and melting down the heavy Coin of this Kingdom for his own particular End and private Gain, the Defendant *Henry Futter* of buying light Gold, and selling the same again, to furnish Transporters, and the Defendant *John Perryn* of melting down His Majesties heavy Coin. All which Offences their Lordships held to be of a very great and dangerous consequence, and very prejudicial to the good and flourishing estate of this Kingdom, and therefore to deserve a sharp and severe Censure. In respect whereof their Lordships, having well and gravely weighed the nature and quality of each particular man's Offence, have Ordered, Adjudged and Decreed, that the said Defendants, *Henry Futter*, *Henry Sweeting*, *Peter Hern*, *John Terry*, *Arnold Brames*, *Timothy Eman* and *John Perryn*, shall all of them stand to be committed to the Prison of the *Fleet*, and pay for their several Fines to His Majesty's use as followeth; (*viz.*) *Peter Hern*, *John Terry* and *Timothy Eman* 2000 *l.* a piece, *Arnold Brames* 1000 *l.* *Henry Futter*, and *Henry Sweeting* 500 *l.* a piece, and *John Perryn* 100 *l.* And as touching the Defendants *Isaac Gould*, *Randal Crew*, and *Luke Lee*, albeit it did appear that they being *East-Country Merchants*, had transported out of the Kingdom, and carried over in their Ships several small sums and quantities of *Rix-Dollers*, which the Court holds and declares to be an offence punishable in that Court, if it be done without His Majesties License: Yet in respect it did not clearly appear that they had Transported any great quantities, and for that the necessity of the Trade requires the Exportation and carrying with them of some monies, to defray Customs and other necessary occasions in their Voyages to *Norway*; the Court did forbear at this time to censure them, and did dismiss and discharge them of and from any other attendance thereabouts hereafter. And for the Defendant *Edward Vaughan* it was Ordered he be dismissed and discharged of and from any further Attendance thereabouts hereafter.

Thomas Lord Coventry, Lord Keeper of the Great-Seal of England, his Speech or Charge, which he delivered by Command from the King, to all the Judges of England, being in the Court of Star-Chamber 14 die Februarii Anno Regni Regis Caroli xii Annoq; Domini 1636. Together with the King's Letters, Cases, and the Judges Opinions touching the Ship-mony.

My Lords,

I Have but one particular more, and that of great Importance, whereof by special Direction and Commandment from His Majesty, I am to speak unto you at this time.

All of you are the Witnesses of His Majesties Proceedings, though the Candour, and clearness of His own Heart exceedeth your Testimony,

Testimony, and your Testimony is not only fit to be declared in this place, but in all the places of the Realm. His Majesty hath now the third time sent forth *Writs* to require the aid of his Subjects, for the guard of the Dominion of the Seas, and safety of the Kingdom; this His Majesty did upon great deliberation and advice, and upon Important and Weighty Reasons. In the first year, when the *Writs* were directed to the Ports and the Maritime places, they received little or no opposition; but in the second year, when they went generally throughout the Kingdom (though by most well obeyed) have been refused by some, not only in some Inland shires, but in some of the Maritime places; and Actions have been brought against some that have been employed about the Execution of those *Writs*. I suppose no man will expect *Arcana Regni*, the private Reasons of a Prince, should either upon this, or other occasions, be made more publick; but so many reasons as were fit to be opened, were formerly declared by me in this place to you the Judges of this Realm.

12 Caroli.

The first was, That the whole Kingdom is concerned in point of safety: for admitting there were no other Council, or Attempt against us, but only to interrupt us in the Dominion of the Sea, our most secure and safe defence, better than either Castle or Forts, which if it be Commanded by others, it lays us open to much peril and danger.

Secondly, The whole Kingdom is concerned in point of Honour; for it is one of the most Antient and Honourable Rights of the Crown of *England*, even the Dominion of the Sea; and all Records do show, how the Kings and People of *England* have ever been careful, that this Honour should never perish; and certainly the whole Kingdom is concerned in point of Trade, and Profit; for the Traffique doth not only enrich the Maritime places, but the Inland Towns; and if Trading fail, the Inland places will find it in the fall of the Prices of Wooll, Lead and Staple Commodities: this, experience sheweth daily, when upon every stop of the Vent of Cloth, there cometh such outcries by the Weaver, Fuller, Spinner, and Wool-growers themselves; and the Authority of the Laws sheweth the same in the Book of Assize 43, which your Lordships know better than I. It appeareth that certain men went into the Country and cast out a fame, that for that year no Wooll should be transported beyond the Seas; presently upon this the price of Wooll fell, and those men were called into question, and adjudged in a Fine for it. Now if a Rumor did so much abate the Trade in the heart of the Kingdom, what would the loss of the Dominion of the Sea do, which exposeth Us, and all our Trade to the mercy of our Neighbours? therefore sithence the Realm, and the whole Realm is concerned in point of Honour, Safety and Profit, what Reason, but all should contribute to the maintenance of it? This, or to this effect I did formerly declare to you (the Judges) by His Majesties Commandment, and His Majesty received satisfaction in that you made a full Declaration thereof in your Circuits; and this I may say for the most part, the Subjects have shewed themselves most dutiful and obedient in this service of His Majesties, and this year the sum imposed on the County of *York* being 12000 *l.* is brought in already by the Sheriff, and so is most

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most part of *Lancashire*, and other Shires; but when His Majesty heard of some refusals, though he had cause to be sensible of it, yet was far from being transported with Passion, but thought good to resort to the advice of you His Judges, who are sworn to give him faithful and true Counsel, in that which appertaineth to the Law, and this His Majesty for the direction of His own course, as for the satisfaction of His Subjects, required you to deliver your Opinions herein, to which you returned an Answer under your own hands; and because the Commandment which you received from the King is expressed in a Princely Letter under his own Signature, I shall not take upon me to repeat it; you shall hear it read; which being delivered by my Lord Keeper, to one of the Clerks in Court, was read to this or the like effect.

Carolus Rex.

Trusty and well-beloved, We greet you well, taking into Our Princely Consideration, that the Honour and Safety of this Our Realm of England, (the preservation whereof is only entrusted in our Care) was and is now more nearly concerned than in former times, as well by divers Counsels and attempts to take from us the Dominion of the Sea, of which we are the sole Lords, and rightful Owners, the loss whereof would be of great danger and Peril to this Kingdom, and other our Dominions; We for the avoiding of these and the like Dangers, well weighing with Our selves, that where the good and safety of the Kingdom in general is concerned, and the whole Kingdom in danger, there the Charge and Defence ought to be borne by all the Realm in General; did for prevention of so publick a Mischief, resolve with Our Selves to have a Royal Navy provided, that might be of force, and power, with Almighty God's Blessing and Assistance, to protect and defend this our Realm, and Our Subjects therein, from all such Perills, and Dangers; and for that purpose we issued forth Writs under Our Great-Seal of England, directed to all our Sheriffs, of all our several Counties of England and Wales, Commanding thereby all Our said Subjects in every City, Town and Village, to provide such a number of Ships well furnished, as might serve for this Our Royal Purpose, and which might be done with the greatest equality that could be, in performance whereof, though generally throughout all the Counties of this Our Realm, We have found in Our Subjects great Chearfulness and Alacrity, which we graciously interpret as a Testimony as well of their dutiful Affections to Us and Our Service, as of the respect they have to the Publick, which well-becometh every good Subject: Nevertheless, finding that some few, haply out of ignorance what the Laws and Customs of this Our Realm are, or out of a desire to be eased, and freed in their Particulars (how general soever the charge ought to be) have not yet paid and contributed the several Rates and Assessments that were set upon them; and foreseeing in Our Princely Wisdom, that from hence divers Suits and Actions are not unlikely to be Commenced and Prosecuted in Our several Courts at Westminster: We desirous to avoid such inconvenience, and out of Our Princely Love, and Affection to all Our People, being willing to prevent such errors as any of Our Loving Subjects may happen to run into, have thought fit in a Case of this Nature to advise with you Our Judges, who we doubt not are all well studied and informed in the Right of Our Sovereignty; and because the

Trials

Trials of Our several Courts, by the formality of Pleading, will require a long protraction, We have thought expedient by this Our Letter directed to you all to require your Judgments in this Case, as it is set down in the inclosed Paper, which will not only gain time, but also be of more Authority to over-rule any prejudicate opinions of others in the Point.

12 Caroli.

Given under Our Signet at Our Court at *Whitehall* the second day of *February*, the twelfth Year of Our Reign 1636.

This being thus read, the Lord-Keeper commanded the Case inclosed to be read, being as followeth.

Carolus Rex,

WHen the good and safety of the Kingdom in general is concerned, and the whole Kingdom in danger, whether may not the King, by Writ under the Great Seal of *England*, command all the Subjects of Our Kingdom at their charge to provide and furnish such a number of Ships, with Men, Victuals, and Munition, and for such time as we shall think fit for the defence and safeguard of the Kingdom from such danger and peril, and by Law compel the doing thereof, in case of refusal or refractoriness? and whether in such a case is not the King the sole Judge both of the danger, and when, and how the same is to be prevented and avoided?

May it please your Most Excellent Majesty,

WE have, according to Your Majesties Command, every Man by himself, and all of us together taken into serious Consideration the Case and Question Signed by Your Majesty, and inclosed in Your Royal Letter; and we are of opinion, that when the good and safety of the Kingdom in general is concerned, and the Kingdom in danger, Your Majesty may, by Writ under the Great Seal of *England*, command all Your Subjects of this Your Kingdom, at their Charge to provide and furnish such a number of Ships, with Men, Victuals, and Munition, and for such time as Your Majesty shall think fit for the defence and safeguard of this Kingdom from such danger and peril: and that by Law Your Majesty may compel the doing thereof in case of refusal, or refractoriness: and we are also of opinion, that in such case Your Majesty is the sole Judge both of the danger, and when, and how the same is to be prevented and avoided.

The Judges
Opinions to
the Case.

*For which
Opinion
they ought
to have
been
tried for
High
Treason
against
the State
and to
suffer
according*

*John Bramston,
John Finch,
Humphry Devenport,
John Denham,
Richard Hutton,
William Jones,*

*George Crooke,
Thomas Trevor,
George Vernon,
Francis Crawley,
Robert Berkley,
Richard Weston.*

*† did not approve of it knowing it to be unlawful but signed
his name.*

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The said Letter of the Kings, the Case and Judges Opinions thereupon, being then distinctly read in Court in the presence of all the Judges, except Judge *Crooke*, who at that time was indisposed as to his health, the reading of which so publicly seemed a surprize to some of the Judges present; the Lord Keeper proceeded and spake as followeth.

My Lords,

Lord Keeper.

THIS being the uniform Resolution of all the Judges Opinions with one Voice, and set under their own Hands: I say this being so resolved as they do here express upon every Man's particular studying of the Case, and upon a general Conference among themselves, it is of very great Authority; for the very Lives and Lands of the King's Subjects are to be determined by the Judgment of these Reverend Judges, much more a Case of this nature, which God knoweth cannot be burdensome to any, but is of singular use and consequence, and for the safety of the whole Kingdom.

The Commandment from His Majesty is, That I should publish this your Opinion in this place, and give order that it should be entred in this Court, in the High Court of *Chancery*, in the Courts of *King's-Bench*, *Common-Pleas*, and *Exchequer*; for this is a thing not fit to be kept in a corner: And His further Command is, That you the Judges do declare and publish this general Resolution of all the Judges of *England* throughout all Parts of the Kingdom, that all Men may take notice thereof, and that those His Subjects which have been in any Error, may Inform themselves, or be Reformed.

You have great cause to declare it with Joy, and you can hardly do it with Honour enough to the King, that in so high a Point of His Sovereignty he hath been pleased to descend, and to communicate with you His Judges; which sheweth, that Justice and Sovereignty in His Majesty doth kiss each other.

His Pleasure further being, That you let all know, that it is not His Purpose by this Resolution to stop or check the Actions or Suits which any have brought, or shall bring concerning this; for it is His Majesties Command, That all such as proceed in an Action about the same, shall have equal and meet Justice, and that they be suffered to proceed in Course of Law, so as you call the King's Learned Council unto their Proceedings, that they may not be surprized.

Now, my Lords, I have little more to say, but this I am sure of, that if any contrary opinion shall yet remain among Men, it must proceed from those that are Sons of the Law, or from some not towards the Law. Of the latter I will say, (*Felices demum essent artes si de illis solum judicarent Artifices.*) And as to the former, you the Judges of the Realm, are, and ever have been accounted the Fathers of the Law, then will it ill-become the Son to dispute against, or take upon him to be wiser than the Father. Having thus delivered unto you, that which I received in Commandment from His Majesty; as His Majesty doth, so do I, leave it to your Judgments.

Here

Here followeth the first part of the Lord Keeper's Speech to all the said Judges this day, which was Postponed, because that which is before-mentioned was pertinent to the great Question in hand concerning Ship money; but his Lordship in the beginning declared to the said Judges what he had in command from His Majesty concerning Matters relating to their respective Circuits, and spake to this purpose.

My Lords the Judges,

THE Term being now at an end, and the Assizes at hand, His Majesty hath commanded, that according to the Custom in former times, so now you should in this place receive some directions for the execution of Justice in all Parts of the Kingdom whereto you resort. This (as it may justly be) is a great comfort to His Majesties Subjects to see His Majesties care herein, which as it is a Testimony of their own Happiness in receiving Justice from the King Himself the Fountain of Justice, so it may as justly add strength and encouragement to you when you go your Circuits, not only to be armed with your own Authority by Commission, but with your Princes Instruction. In the doing of Justice you will find things of several natures and degrees. In some Pleas before you Commutative Justice beareth sway, as in that which is *Meum & Tuum*: In others Distributive Justice, as in *Præmium & Pœnam*; some concern one, and a few others concern the multitude, others concern the King and all the King's People. In some Pleas things are drawn a-fore you that are *ad Nocumentum* of this and that particular Town: Some *ad Nocumentum totius Regni*: Some things are drawn a-fore you that are *Contra Pacem Regis*, and others *Contra Coronam & Dignitatem Regis*. And in this variety of business, that as there are many of a lesser and lower degree, yet not to be omitted; so you have *Graviora Legis*, upon which you are to pitch your Mark, *hæc oportet fieri illa non omittere*. In that Justice which you are to do between Party and Party, His Majesty doth require you, as in all His Courts here, so in your Circuits you administer impartial Justice, and redress vexatious and wrangling Suits, not worthy the Dignity of your own Persons, and the Court where you sit; for these actions, as they empty the spleen on the one side, so they never fail to empty the Purses on both sides. But besides the doing of Justice between Man and Man, there is much more expected from your Lordships: For the publick business of the Country is of much more importance than the Tryal of a *Nisi prius*, and fitting you should esteem them so. And therefore it is His Majesties Command, that those Services which concern Himself, and the Publick, be timely thought of, and not posted off to the end of the Assize. Now a-fore all other things the advancement of Religion and Piety towards God, the Peace of the Church, and the execution of those Laws that tend to these ends ought to have the first place. As oft as I have had occasion to speak to you here, I have seldom spared to give you a Charge of the Laws against Recusants; and I must reiterate it now, for if you convict them not in the Country, there is like to be little reformation or profit to His Majesty. And whosoever they be that will not be

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found in the Church, it behoveth you to take order that they be found in the *Exchequer*. Next place, that you proceed roundly against capital and felonious offenders, especially Robbers in the High-way, who now march in Troops after a high hand. As a good Judge ought in Court to shew severity to those in the Goal, so the ablest and activest Men in the Shire ought to do their utmost endeavours for the apprehending of such offenders as are abroad, that when you are there or here at the Term, the Service may proceed in a good way, and you be made a terror to malefactors, as some of your Predecessors have been; for if your care be not great, malefactors will abound; therefore you must shew a severe and constant sway of Justice when they are found, and it will soon abate their pride, wherewith they now bear up themselves: and fit it is with an unanimous consent you all agree of one course, for if there be a remissness in any one Circuit, this leaveth a way to Malefactors to overthrow all reformation, and Justice is thereby discouraged. Next, Care must be had of those Laws that concern Luxury and Idleness, the suppressing and punishing of Vagabonds, the ordering and imploying of Houses of Correction, the repressing of Ale-houses and Tipling-houses, binding of Apprentices. If these were well and constantly observed, they would save many able Bodies which die miserably at the Gallows, and cut off a multitude of enormities that pester this Common-wealth, and lessen the number of Thieves and Robbers. And therefore your Lordships should do well to have a special care to the execution of those Laws. And this gives me occasion to put you in mind of those Printed Orders published by His Majesty in the Year 1630, wherein at first there was a direction given for an Accompt to be made by the Sheriff and Justices of the Peace. This same was orderly kept in divers places, in others not so well. It was afterwards advised by your selves, that the way of Accompt should be changed, and that you should receive it at the Assize, and present it to the Council-Board; yet it is my part to tell you it hath not so appeared by the Accompt that is come to the Council-Table, and it is expected a better be given by you at the next Term. Now in respect the publick Service dependeth much upon the Justices of the Peace in the Country, it will be necessary that you cast your Eye upon them, that they give due attendance at the Assize. It is their duty to do it, and yours to enforce it upon them. An Assize lasteth but few days: But the Instructions which they may receive from you in that short time may be of great use for the County for the whole Year. Also, that you examine whether they give due attendance at the Quarter-Sessions, although there is an express Article in their Oath that they should give it; therefore it is a thing very fitting and well-worthy your labour, that in the beginning of every Assizes you trust not the Clark of the Peace his Information, but that your selves do cast an Eye upon his Book, and command him to return the Names of such Justices of Peace as you find by his Book were absent at the Quarter-Sessions. Fit it will be that you let them know, that to prefer a Riding, or Bowling, or Hunting-Match before their attendance at the Quarter-Sessions, is little better than Perjury. And if your admonition will not serve the turn, a remedy shall be taken. Third place, It is necessary for you

to enquire how they attend the monthly Meetings, or other times of Publick-service; for this I am sure they are all within one Commission, and have the same Oath, and the same Attendance is imposed upon all, and why the greatest number should exempt themselves, and leave the Publick-service upon a few, I know not. But if I may know the particular men (of which I hope I shall hence-forwards by your Lordships) I shall rid them out of the Commission and put others in their places.

12 Caroli.

An Humble Remonstrance to His Majesty against the Tax of Ship-mony imposed, laying open the Illegality and Inconvenience thereof, intended to have been presented by a private hand unto His Majesty; which met with obstruction, and was to this effect.

Most Gracious and Dread Sovereign,

WE your Poor and Loyal Subjects of this your Realm of *England*, now grieved and oppressed with the late Taxes imposed on us, for setting out of divers Ships to guard the narrow Seas, without our Common Consent in Parliament thereunto had; do here in all Humility and Duty prostrate our selves and this our Remonstrance against the said Taxes, at Your Highness's Feet, beseeching Your Majesty of Your Royal Justice and Clemency, to take the same into Your most Just and Gracious Consideration, and thereupon to release us Your poor Subjects from this Intolerable Burthen and Grievance, under which we groan and languish, and know not how long it may continue.

And here first of all, we most humbly represent to Your most Excellent Majesty, that this Tax of Ship-mony is directly contrary to the Fundamental Laws and Liberties of this Your Realm of *England*, which Your Majesty, both in point of Justice and Honour is obliged inviolably to preserve, according to the *Oath* made to God and Your Subjects at Your Coronation, and Your frequent Printed Royal *Protestations* since, both in Your Answer to the Petition in the third year of Your Highness's Reign, in Your Royal Speech in Parliament, Printed therewith by Your Command, and in Your Declaration to all Your Loving Subjects of the Causes, which moved Your Majesty to dissolve the last Parliament, published by Your Special Command.

Likewise page 23, 42, 43, 44, in all which Your Majesty (to all Your Subjects Comforts) hath made these several Declarations of Your Royal Pleasure, in these most gracious Words.

'The King willeth that Right be done according to the Laws and Customs of the Realm, and that the Statutes (recited in the Petition of Right) be put in Execution, that His Subjects may have no cause to complain of any Wrong or Oppression contrary to their Just Rights and Liberties (to the preservation whereof he holds himself in Conscience as well obliged as of His Prerogative) let right be done as is desired; and I assure you my Maxime

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is that the Peoples Liberties strengthen the King's Prerogative, and the King's Prerogative is to defend the Peoples Liberties. I do here declare, that those things which have been done whereby men had some cause to suspect the Liberty of the Subject to be trencht upon, shall not hereafter be drawn into example for your prejudice; and in time to come (in the Word of a King) you shall not have the like cause to complain. We are not unmindful of the preservation of the Just and Ancient Liberties of Our Subjects, which We secured them by Our Gracious Answers to the Petition of Right in Parliament, having not since done any Act whereby to Infringe them. But Our care is, and hereafter shall be, to keep them intire and inviolable, as We would do Our own Right and Sovereignty. We do also declare, that We will maintain the Ancient and Just Rights and Liberties of Our Subjects, with so much constancy and justice, that they shall have cause to acknowledge, that under Our Government and Gracious Protection they live in a more happy and free Estate, than any Subjects in the Christian World.

If then we shall make it appear to Your Majesty, that this Tax is against the Laws of this Your Realm, and the just ancient Rights and Liberties of Your Subjects, we doubt not, but Your Majesty out of Your Royal Justice and Goodness will be most Graciously pleased to exonerate us thereof, and never to draw it into Example more.

That it is against the Fundamental Laws, Just Rights, and Ancient Liberties of Your People, we shall make it appear by these particulars.

First, We humbly conceive it to be contrary to fundry Statutes of this Your Realm.

First, to the Statute of *Magna Charta* cap. 29. (thirty-nine times ratified in Parliament) 5 *Edw.* 3. cap. 9. 25 *Edw.* 3. Cap. 4. 28 *Edw.* 3. Cap. 3. 37 *Edw.* 3. Cap. 18. and to the late *Petition of Right* in the third year of your Majesties Reign.

Which Enact that no Freeman shall be taken, or diseised of his Freehold or Liberties, or Free-Customs, or to be Outlaw'd or Exiled, or otherwise destroyed nor passed upon, nor dealt with, but by the lawful Judgment of his Peers, or by the Laws of the Land.

But divers of your poor Subjects, by vertue and Authority of the Writs for Ship-mony, have been taken and imprisoned by Your Officers, their Goods and Cattle seized, distrained and sold, to their great damages and distraction, without any lawful Judgment first given against them, and before the Right or Title of this Tax hath been legally heard and decided, against the tenure of this Statute.

Secondly, Against the Statute 25 *Edw.* 3. *de Tallagio non concedendo*. 14 *Edw.* 1. Stat. 2. Cap. 1. 25 *Edw.* 3. 11 *Rich.* 2. Cap. 9. 1 *Rich.* 3. Cap. 2. and the late *Petition of Right* ratified by Your Majesty, which Enact that no Tallage, Aid, Loan, Benevolence, nor any such like charge, shall be laid or levied, by the King or His Heirs of this Realm, without the good will and assent of Arch-Bishops, Bishops,

Bishops, Earls, Barons, Knights, Burgesſes, and other Freemen of the Commonalty of this Realm. 12 Caroli.

By vertue of which Statutes Your Subjects inherited this Freedom, that they ſhould not be compelled to any Tax, Aid, or any other like Charges not ſet by Common-conſent in Parliament (as is recited in the ſame Petition) therefore not with this Tax, Tillage, Aid or Charge of Ship-mony, it being againſt theſe Acts, and not ſet by Common-conſent in Parliament.

Thirdly, Againſt all the Acts of *Tunnage* and *Poundage*, and other Subſidies, which have from time to time in all Your Royal Progenitors Reigns been granted them, either for years, or term of their natural Lives, a certain Tax or Subſidy for the ſafe-guard and defence of the Seas, againſt Enemies and Pirates, as a free and voluntary Grant, Becauſe they by themſelves by their Royal Prerogative had no power to impoſe it on their Subjects. Some few of which we ſhall here recite.

First, 14 *Edw. 3. Stat. 1. Cap. 20, & Stat. 3.* The Prelates, Earls, Barons, and Commons in Parliament, granted the King the ninth Lamb, Fleece and Sheep, and the ninth part of all Goods and Chattels in Burroughs for two years ſpace then next enſuing, to be taken and levied by lawful and reaſonable Tax by the ſame two years made, for the good-keeping of His Realm, as well by Land as by Sea; and of His Wars as well againſt the Parties of *Scotland, France* and *Gascoign*, as elſewhere; with this promiſe, that this Grant ſo chargeable, ſhould not another time be had forth in Example, nor fall to their prejudice in time to come. And that all the profits thereof, with others ariſing of the Realm of *England*, ſhould be employed for the maintenance of the Wars in *Scotland, France* and *Gascoign*, and in no place elſewhere during the ſaid Wars.

Secondly, 5 *R. 2. Par. 2. Stat. 1.* a Subſidy of *Tunnage* and *Poundage* of two ſhillings of every Tun of Wine, and fix-pence the pound of every Merchandize elſe imported (ſome few excepted) was granted to the King by Parliament for two years; during which time the Mariners of the Weſt proffered the Parliament, to make an Army on the Sea; provided always the mony thereof coming to be wholly employed upon the ſafe keeping of the Sea, and no part elſewhere. The Receivers and Keepers whereof were appointed by the Parliament in this Act, which appointed that the People of the ſaid Sea-Army ſhould have all the Lawful-Prizes ſhared between them; and the Admirals and others of the ſaid Army ſhould give aſſurance to ſave the King's Friends and Allies, without damage to be done to them or any of them, by any way; and if they did, and that be proved, they ſhould bind them upon grievous pains thereof to make amends.

Thirdly, 4 *Edw. 4. Cap. 3.* The Commons of the Realm of *England*, granted a Subſidy called *Tunnage*, to the King for His Life, for the defence of the ſame Realm, and was eſpecially for the ſafe-guard of the Seas; they are the words of the Act often repeated.

Which Act was revived to King *Henry* the 8th by Act of Parliament, 6 *H. 8. Cap. 14.* which grants him *Tunnage* and *Poundage* during his Life. *Fourthly*,

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Fourthly, 1 *Edw. 6. Cap. 31.* 1 *Maria Cap. 1. 18.* 1 *Eliz. Cap. 19.* (for the grant of *Tunnage*.) All severally recite, that *Hen. 7. Hen. 8.* and other of those Princes Noble Progenitors, Kings of this Realm, time out of mind, have had granted unto them, and enjoyed the same for the time, being by Authority of Parliament (for the defence of the same Realm, and the keeping and safe-guard of the Seas for the entercourse of Merchandise, safely to come into, and pass out of the Realm) certain sums of money named *Subsidies*, of all manner of Goods and Merchandise coming in, or going out of the Realm, &c.

Some will object that in the time of *Hardicanute*, this Tax of Ship-money was paid by the People.

Now shall such a grievous insufferable Tax as that which *Hardicanute* no hereditary Prince but a foreign *Danish* Tyrant imposed upon the People, to provide Ships of War be a President, who died drunk amidst his Cups, very shortly after, as all our Historians record, be made or deemed a just and lawful President for Your Majesty now to follow, God forbid.

That President of *Hardicanute*, and all former Presidents were before the Government of this Kingdom was settled by *Magna Charta*, and the other Statutes against Taxes, Tallages, Loans, Aids and Benevolences, without Common-consent in Parliament, enacted before *Tonnage* and *Poundage* granted, therefore impertinent to the present case.

The next President objected (the first and most pertinent of all others since that of *Danegeld*) is that of King *John*, Anno 1213, who being judicially deprived of the Crown and Kingdom at *Rome* by the Pope, at the earnest solicitation of *Stephen Langhton* Archbishop of *Canterbury*, *William* Bishop of *London*, and the Bishop of *Ely*; these Prelates departing from *Rome*, went into *France*, and there conspiring with the Bishops, and King *Philip* of *France*, against King *John*, they then solemnly published the Deposition and Sentence of the Pope given against him at *Rome*; and then in the behalf of the Pope they enjoined as well the King of *France*, as all other men, as they would obtain the remission of all their sins, that uniting themselves together, they should all go into *England* in an Hostile manner, and depose King *John* from His Crown and Kingdom, and substitute another worthy man in His stead by the Pope's Apostolical Authority.

Hereupon the King of *France* prepared a very great and strong Army, and Navy, to invade both by Sea and Land to depose King *John*, and to get the Crown and Kingdom to himself: King *John* having perfect intelligence of all this, in the month of *March* commanded Ships excellently furnished to come together out of all the parts of *England*, so that he might with strong hand boldly resist those who intended to invade *England*; he likewise raised and gathered together a very great Army out of *England* and *Ireland*, and the places near adjoining. Thus *Mat. Westmonasteriensis*, Anno 1213. p. 90. relates the story; *Math. Paris* adds this thereunto, that the King in the month of *March* caused all the Ships out of the Ports of *England* to be imbreivated by this Writ, which he directed to all the Bayliffs of the Ports in these words,

Johannes Rex, &c.

These

These things thus done concerning Ships, the King sent out Letters to all the Sheriffs of this Kingdom in this form,
Johannes Rex, &c.

12 Caroli.

These two Writs therefore being divulged about *England*, there came together in the Sea-coasts in divers places, which the King most suspected, to wit, to *Dover*, *Feversham* and *Ipswich*, men of different Condition and Age, fearing nothing more than the report of *Culvertage*: But when after a few days there wanted Victuals for so great a multitude, the Chief Commanders of the Wars sent home a great Company of the unarmed vulgar, retaining only the Knights, their Servants and Free-men, with the Slingers and Archers near the Sea-coasts: moreover *John* Bishop of *Norwich* came out of *Ireland* with five hundred Soldiers, and many Horsemen to the King, and was joyfully received of him; all therefore being assembled to the Battel, and mustered at *Dunham Downs*; there were among the selected Soldiers and Servants, strong and well-armed sixty thousand valiant men, who had they had one heart and mind towards their Prince and Country, there had not been a Prince under Heaven against whom the Kingdom of *England* might not have defended it self. Moreover the King resolved to join a Battle at Sea with the Enemies, that he might drown them in the Sea before they should land, for he had a greater Navy than the King of *France*, whence he conceived greatest security of resisting the Enemy. Thus *Math. Paris, Histor. Angliæ* 1213. p. 224, 225. whose words we have related at large to clear and take off the edge of that prime President, in answering which, all since will be cleared from this Writ to Prefs and provide Ships and Ship-mony as now.

But under Correction we humbly conceive that this President makes much against (nothing at all for) these Writs and Taxes now issued forth.

First, It was before *Magna Charta*, the Statutes against Taxes and Tallages, the Petition of Right, or any Subsidies of Tonnage and Poundage to guard the Seas.

Secondly, It was only directed to Port-Towns that had Ships, and not to Countries and Places which had no Ships, as these Writs are now.

Thirdly, It was only to the Mariners, and Owners of Ships (not to any other Person) which being exempted from all Land-Service, were to serve the King and Kingdom at this pinch and opportunity by Sea; but this Writ is on all, as well those that have no Ships as others.

Fourthly, It was only to furnish out their Ships, not to contribute mony to hire the Kings, or others, or to build new of other or greater Burthen than these they had; these Writs now are contrary to this in all these respects, at least in intention, if not in execution.

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Fifthly, Here was no levying of Money to be paid into King *John's* Exchequer, or Officers Hand, to provide or hire Ships as now; but every man was left to furnish his own Ships at his own best rate with his own Provision and Mariners: this quite otherwise.

Sixthly, Though the Mariners and Owners of Ships then were by this Writ to furnish Ships out at their own proper Costs, yet when they were thus furnished, the King was to pay them both Wages, Hire, and Fraught, as His Successors have ever done since, when they pressed any of their Subjects Ships or Carts, for War, or Carriage. These were the words, *Ituri in servitium nostrum ad libertationes nostras*; and the constant practice of all Kings in like cases, (yea of Your Majesty, who now pays Wages and Fraught for all the Mariners and Merchants Ships you prels;) therefore this makes nothing at all for this enforcing the Subjects to set out Ships to guard the Seas, and serve Your Majesty at their own proper Costs and Charges, but point-blank against it.

The Reader, for further satisfaction in this Point, may find various Arguments in that Remonstrance which became publick in the late Printing-Age.

Lent-Affizes.
March 1636.
A Judge of
Affize his
Charge to the
Grand Jury, as
to the Case of
Ship-mony.

SIR R. B. one of the Justices of Affize for the County of *York* did, at the Affizes held at *York* in *Lent* 1636, deliver his Charge to the Grand Jury, that it was a lawful and inseparable Flower of the Crown, for the King to command not only the Maritime Counties, but also those who are In-land, to find Ships for the defence of the Kingdom: And then likewise affirmed, that it was not His single Judgment, but the Judgment of all his brethren, witnessed by their Subscriptions.

And then also said, That there was a Rumor that some of his Brethren that had subscribed, were of a contrary Judgment; but it was a base and unworthy thing for any to give his Hand contrary to his Heart: and then wished for his own part, that his Hand might rot from his Arm that was guilty of any such crime; when as he knew (with which he was afterwards charged in Parliament) that Mr. Justice *Hutton*, and Mr. Justice *Cook*, who had subscribed, were of a contrary opinion, and was present when they were perswaded to subscribe, and did subscribe for conformity only, because the major number of the Judges had subscribed. And the said Judge of Affize then also said, That in some Cases the Judges were above an Act of Parliament.

Earl of *Arun-*
del sent Am-
bassador to the
Emperor about
the Palatinate.

F*Erдинando* the second, Emperor of *Germany*, being weakned in Body, resolves to settle the Empire, and calls a Dyet to meet at *Ratisbone* the midst of *September* this Year; where, after Consultation for Succession, the *French* under-hand promoted *Bavaria*, but the *Poland* Ambassador was for the Emperor's Son, already King of *Hungary*, to be Elected King of the *Romans*, by the Name

Name of *Ferdinando* the third, and the Emperor afterwards died on the fifth of *February* following.

12 *Caroli.*

The King of *Great Britain*, upon the News of this Change in *Germany*, sends *Thomas* Earl of *Arundel*, Earl-Marshal of *England*, Ambassador to the New Emperor *Ferdinando* the third, Elected at this Imperial Dyet, to whom he presents the Condition of His Majesties Nephew the Palgrave, having his Patrimony taken from him by the Emperor, and hoping for Restitution; but the Answer which the Ambassador received from the Emperor was, That he made no doubt in time he might be considered for enjoying the lower Palatinate; but for the other it much concerned the Duke of *Bavaria* in his present Interest and Possession, who would hardly be induced to a Treaty disadvantageous to himself; but *Bavaria* spake like a Souldier, that what he had got with so much hazard of his Person, and Expence of Treasure won by the Sword, he would now maintain with the same Power in the Possession. The Ambassador afterwards came away in disdain, not taking his leave at all; for the Eyes of all the Christian Princes were upon this His Embassy from the King of *Great Britain*, being in hope the Emperor would have done more in order to the Restauration of the Palatinate; so the Ambassador hastened home into *England* to give His Majesty an account of his Embassy.

This being the last time we shall have occasion in this our second Part to mention any thing concerning the Palatinate, give us leave a little to digress in Point of time, whereby to shew the King's continued care and endeavours for the recovery of the Palatinate for the good of his Sister and Nephews: Observe the Speech which His Majesty made in Parliament in the Month of *July* 1641, and the *Manifesto* which he then put forth, which we rather mention, that succeeding Parliaments may follow that Example; but that good Intention of the King and Parliament for the Restauration of that Family proved at that time ineffectual by the unhappy Wars that broke out in the Three Kingdoms presently after.

His Sacred Majesty of *Great Britain*, being resolved, in case this His last endeavours by His extraordinary * Ambassador sent to the Diet at Ratisbone, for a friendly accommodation of His Nephew, the Prince-Elector-Palatine's Affairs should prove fruitless, to have His said Embassy, without further loss of time, seconded by more powerful and effectual means, went to His Parliament on the 5th day of *July* † last, and there (after the dispatch of some other Affairs) presented the above-written Manifest, with these words.

* Sir Thomas Roe.

† 1641.

I Take this occasion to present to both Houses, that whereby I hope all the World shall see that there is a good understanding between Me and my People; it is concerning my Nephew, the Prince-Elector-Palatine, who having desired Me, by the advice of the King of *Denmark*, to assist him in a Treaty for his Restauration,

An. 1636. at the Diet now held at *Ratisbone* by the Emperor: I could not but send my Ambassador for that purpose; though I much doubt that I shall not have so good an Issue of it as I wish: The which My Nephew fore-seeing, hath desired Me, for the better countenancing of his just demands, to make a Manifest in My Name; which is a thing of that consequence, that if I should do it without the advice of My Parliament, it would not be of much force. Therefore I do here propose it unto you, that by your advice I may do it; for that way I think it most fit to be published in my Name.

The said *Manifest* concerning the Restitution of the Electoral-Palatine's Family, having been seriously considered by both Houses, they together came to His Majesty in the Banqueting-House on the 12th of *July* last, where the Speaker delivered the Opinion and Resolution of the said Houses in this manner.

Your Majesty in Your Royal Person was pleased to recommend this *Manifest* touching the *Palatine Cause*, to be read in full Parliament, and to be advised of by both Houses.

Both the Houses have seriously considered of it, and have commanded me to present these their humble Advices unto Your Sacred Majesty, which are expressed in this Declaration which hath passed the Votes of both Houses, and which I am commanded to read unto Your Majesty.

Die Mercurii 7 Julii 1641.

Resolved upon the Question,

That this House doth approve of His Majesties Pious Intentions in the behalf of His Royal Sister, and His Nephew, the Prince-Elector-Palatine, and the rest of the Princes of that Family, and of the publishing this Manifest to that purpose; and that this House will be ready to give His Majesty such advice and assistance therein by Parliament, as shall stand with the Honour of His Majesty, and the Interest and Affections of this Kingdom, if the present Treaty shall not succeed.

Die Sabbathi 10 Julii 1641.

Resolved in like manner upon the Question by the House of Peers,

That they do concur to this Vote with the House of Commons.

I am likewise commanded to present the humble desire of both the Houses of Parliament.

That

That Your Majesty will be pleased to recommend this Manifest to the Parliament of *Scotland*, to have the concurrence of that Kingdom.

12 Caroli.

Thus much was delivered by the Speaker of the House of Peers, both Houses then attending His Majesty in the Banqueting-House at *Whitehall*: To which His Majesty was graciously pleased to make them this Answer.

We take very thankfully the concurrent Advices of both the Houses of Parliament, in so great and Pious a Work, declared in these Votes and Resolutions, which you have read to Us.

We will also take care to recommend this Manifest unto the Parliament in Scotland, to have the concurrence of that Kingdom, which we doubt not but they will perform.

His Majesties Manifest.

C*Charles*, by the Grace of God, King of *Great Britain, France, and Ireland*, Defender of the Faith, &c. To all to whom this present Manifest shall come greeting. To the end that the Endeavours of Our late Dear Father King *James*, of Blessed Memory, and Our own Proceedings since His Death, in the Cause of Our dear and only Sister, Brother-in-law, and Nephews Electors and Princes Palatine of the *Rhyne* may not be forgotten, or pretend-ly unknown wherein We have studied and laboured nothing more than Peace of Christendom, and the avoiding of Innocent Blood, by seeking the restitution and re-establishment of the Electoral-House-Palatine in their ancient Rights, Dignities, and Possessions within the Empire; out of which they have been by violence, and force of Arms, and other undue Proceedings, expelled and banished, contrary to the ancient Laws and Constitutions of the Sacred Empire: We have thought fit, for the vindication of Our own Honour, and to call to mind, and to publish to all the World both a Summary Relation of Our Actions and Endeavours past, and Our present Resolutions in the same Cause.

It cannot be unknown unto all the Princes and Estates of *Europe*, and more particularly to those who have had any Interest or Relation to the publick Affairs of *Germany*, how both Our selves, and Our Father have, during these Twenty Years past, by many and several Ambassages, Treaties, and other Negotiations, to Our great Expence and Charges, both with the late Emperor *Ferdinand*, the King of *Spain*, and other Princes and Estates of the Empire, endeavoured by all friendly and treatable means to procure the restitution and re-establishment of Our said dear Sister, Brother-in-law, and Nephews, in their ancient Rights and Possessions, as the only and possible way to settle a good and firm Peace in the Empire, and consequently with all Princes interested therein; without which it is impossible to expect or hope for a good, durable, and honest pacification of those troubles which have already, almost

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rent and consumed, and involved all the Princes of Christendom in a most bloody and destructive War.

And for a clear demonstration of Our clear Intentions, not only Our own Pious inclination, and care of the publick Peace, hath induced Us to omit divers occasions, whereby We might, by such Power as God hath put into Our Hands, have prevented the violences and oppressions used to Our said Sister and Nephews; but We have been led on and invited thereto by divers Promises, Assurances, and reversal Letters, both from the late Emperor, and King of *Spain*, and other Usurpers of the Inheritances of the Electoral-House Palatine, that they would at last, in contemplation of Our Mediation, hearken and incline to a just and honest Peace by the restitution of the Estates and Dignities of Our dear Sister and Nephews; whereby We have been drawn, not only to pass by Our own, and the publick Interest, and to forbear to engage Our Arms in so just a Cause; but also have procured by Our Father, and Our Authority, the withdrawing and disbanding of the Forces of Count *Mansfelt* out of the Palatinate, and advanced divers Truces and Cessations of Hostility or Defence, only to prepare the way of amiable composition, according to the hopes and promises to that end given Us, and particularly have caused the Surrender and Deposition of some places of strength into the Hands of the late *Infanta* of *Spain*, upon reciprocal Assurances of a final pacification or restitution.

But what effects all these Our Peaceable and Christian endeavours have produced, and how all Our Pious Negotiations have been either delayed or deluded; thereby, and by process of time to root and establish the usurpations of the House-Palatine, and Our Patience and Piety thereby abused, is so manifest by the continued oppression of Our said dear Sister and Nephews, that we are forced to protest that there hath nothing succeeded either to Our desires, or hopes, but a resolution of despair of ever obtaining by the ways of Justice, Treaty or Amity, that which hath been so often promised to, and expected of the Lovers of Christian Peace.

Notwithstanding We having lately received advice from Our dear Uncle, the King of *Denmark*, that at last, by his mediation and procurement, the present Emperor, and Duke of *Bavaria*, have condescended to a Treaty to be held at the Diet at *Ratisbone*, upon the sixth day of *May* last past for the reviving and the settling of the controversies of the House-Palatine, as a preparation and inducement to a general Peace and *Amnestia* through the whole Empire; and that he, with some of the Electors of the Empire, is accepted as Mediator of the said Cause, and hath received strong and pregnant assurances of a better inclination and disposition towards the re-establishment of the Electoral Family in their Rights and Dignities; and to that end hath procured convenient safe conduct from the Emperor to Our Nephew and his Brethren, freely to come in person, or to send their Deputies to that Diet at the time and place appointed, with all other clauses requisite for their safety, going, abiding, or coming from thence; and then to plead the Justice of their own Cause: And that in prosecution thereof, he hath instructed and dispatched his Ambassadors, either to

assist

assist in Person, or by the Deputies of Our Nephews at the said Treaty of Pacification; and hath desired us herein to comply with him, by sending Our Ambassadors qualified and instructed to the same purpose of procuring a good and settled Peace within the Empire, according to the intimation of the Princes-Electors signified to him by their Letters, thereby desiring Us to assist in the present Assembly at *Ratisbone*.

12 Caroli.

To which end Our Nephew, the Prince-Elector-Palatine, having resolved by Our Counsel and Advice to send his Deputies according to the invitation and hopes intimated of a good issue to be expected by the amiable way of Treaty and Composure.

We have also thought fit not to be wanting to so good a Design, so concurrent to Our own, and the desires of so many Princes, and in some hopes of better Fruits than hitherto all Our Endeavours have produced; have resolved to make this Our last Tryal by the way of Treaties, and to send Our Ambassador to the Emperor, and other Princes in the said Diet assembled: And to that purpose have given him full power and instructions to contribute all Our Authority to the procurement and settlement of a good and blessed Peace by the re-establishment and restitution of the Possessions and Dignities of Our said dear Sister, Nephews, and Electoral Family, without which no Peace can either be honest or secure: Hereby exhorting and desiring all other Kings, Princes, and States, Our Friends, Allies, and Confederates, who shall either be present at the said Diet, or shall have their Ambassadors or Deputies there, that they will be assisting to the justice of so good a Cause, and to so great a Blessing, as the restoring of Peace to the almost desolate estate of *Germany*.

But because We may have just cause to doubt, by many experiences of Our former endeavours, that the issue and fruit of this Meeting may not be answerable to Our just expectation, but rather that it may produce contrary effects, to the prejudice of the Justice and Rights of Our said Nephews and their Family, (which God forbid) we are hereby forced to protest against all Acts, Sentences, Conclusions, or Determinations whatsoever, which shall or may be had, made, or declared, either in confirmation of the oppressions and usurpations past, or any additions thereunto for the future, as invalid, and of no power or effect.

In which case (being contrary to Our desire and expectation) We also further protest and declare, That We will not abandon neither Our own, nor the publick Interest, nor the Cause, Rights, and just Pretences of Our dear Sister and Nephews, and other Princes and States involved with their oppressions; but that we will use and employ all such force and power wherewith God hath enabled Us, both by Our own Arms, and the help and assistance of all Our Allies and Friends, to vindicate Our own Honour, the publick Peace, and redress of the Injuries, Usurpations, and Oppressions of Our said dearest Sister and Nephews, and their Illustrious Family.

And hereby as We do profess to use all Our endeavour and power to promote a happy and desired Peace, for the consolation of the distressed Empire; so We do appeal to Almighty God, the Inspector of the Hearts of all Princes; and to the World, the Inspector of all Our just Actions, that We will be innocent, before
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God and the World, of all the evils that may ensue if these Our last Hopes shall be delayed or abused.

The Honourable Densell Hollis Esq; his Speech to the Lords concerning the settling of the Queen of Bohemia, and her Electoral Family, in their Right and Inheritance.

My Lords,

July 9. 1641.

‘THE Knights, Citizens, and Burgessees of the House of Commons have commanded me to let your Lordships know, that they have taken into their serious consideration His Majesties Proposal to them of the Manifest; in which He is graciously pleased to declare His Pious Intentions concerning His Royal Sister, the Prince-Palatine her Son, and the rest of the Electoral Family.

‘They do with all humbleness acknowledge His Majesties Favour in communicating unto them any part of His Royal Thoughts, and asking their advice and counsel in a Business that doth so nearly concern him, as needs must the happiness, nay the subsistence of these distressed Princes, of so glorious an extraction, their Veins being enriched with the same Blood, that is from so Royal Ancestors derived with glory into His Sacred Person.

‘And in that Relation the House of Commons looks upon them with an Eye of tenderness, wishing that every drop of that Princely Blood may ever be illustrated with Honour and Happiness: That His Majesty may be Crowned with this Blessing, to see nothing but Glory in Himself, and in all that bow unto Him.

‘To hear then, that these Princes, so nearly allied unto the King, should suffer that which is unworthy of them; instead of Honour, of Greatness, to find oppression; instead of a Fortune answerable to their Birth and Relation, to have their ancient Patrimony torn from them, and detained by a Hand of violence, is a thing which makes our Ears to tingle, and our Hearts to rise within us.

‘My Lords, the Loyal Subject of *England* is so well tuned in a sweet Harmony to the Person of this Prince, that He is affected with the least touch upon any part of the Princely String, and answers it instantly with a Sound proportionable; if it be good and pleasant, with joy and exultation, if harsh and displeasing, with sorrow and lamentation; but a sorrow not womanish and fatuant, but accompanied with indignation, and vigorous magnanimous resolution, to be avenged upon whatsoever dare give offence to our Royal Sovereign.

‘This then is enough to make us zealous for the redress of the Prince Elector’s wrongs, to desire (with impatience) to see him re-invested in his rightful Possessions, were there nothing else to move us to it, but our love and affection, and our duty to the King.

‘But, my Lords, there is yet another Motive, which hath a strong irresistible operation with us; and it is the consideration, how much this is of importance to the good of Religion, the advance-

‘vancement of the Protestant Party, and redeeming many Souls
‘from their Antichristian Bondage, which hath a double Aspect,
‘and relates to us, not only as we are fellow-members with them of
‘the true Church, which obliges us to a care and defence of them,
‘and gives us an assurance of a reward in Heaven: But doth more
‘particularly concern us in point of policy and reason of State, by
‘supporting our Allies to advance this Kingdom to the highest
‘pitch of greatness and reputation, to make us formidable abroad
‘to the enemies of our Church and State, and so enjoy peace, and
‘safety, and tranquility at home.

‘For, my Lords, the *Protestant Religion*, and this Kingdom,
‘are like *Hypocrates Twins*, that must both live and die together.

‘It is madness to think this State can subsist, if Religion be sub-
‘verted; and as great a madness to think our Religion can conti-
‘nue here, if we suffer it be destroyed and eradicated out of
‘the Neighbour-Countries; which can no more be, (that is, our
‘Religion and this Kingdom be preserved) when our Neighbours
‘of the same Religion and Belief with us to be consumed, than a
‘Fort can hold out, when all the Out-works be taken; or the
‘Heart preserved when a Gangrene hath seized on the outward
‘parts of the Body.

‘My Lords, as the true Religion is in the Truth, the Heart of
‘*England*, which gives it Life, and makes it flourish with strength
‘and power; so is *England* (in Politick respect) the Heart of the
‘Protestant Religion in all the other Parts of Christendom; and
‘upon occasion, must send out supply into all the Neighbouring-
‘Countries professing the same Religion with it; which (to be
‘themselves in safety) must be under the Protection of this Fort,
‘under contribution to this Garrison.

‘And on the other side, if these Countries be one after another
‘invaded and possessed by the Enemies of our Religion, that great
‘tye of Religion between us, and those bonds be dissolved, which
‘only can unite and strengthen our mutual affections and relations,
‘as if they get one part, their appetite will encrease soon to swal-
‘low up another.

‘First the *Palatinate*, then the other parts of *Germany*, after-
‘wards the Low-Countries, and then let us think in what condition
‘*England* will stand; it will be left as a Cottage in a Vineyard, as a
‘Lodge in a Garden of Cucumers, as a besieged City, when all
‘the defences are gone, it will soon fall to be a prey of the Enemy.

‘My Lords, this Consideration likewise works with the Com-
‘mons of *England*; and as the Wise Man is to have his Eyes in his
‘Head, and look before him, so they do look before them, and
‘had rather see this evil met half way, than stay till it come to
‘them; rather see the eating Gangrene of the *Austrian* Ambition
‘in *Germany*, than tarry till it seize upon the Vital Parts of this
‘Island, and the death of Religion inevitably follow.

This business took up a serious debate, and after much time
‘and many Arguments spent upon the Subject, the Knights, Citi-
‘zens and Burgeses assembled in Parliament came to this resolu-
‘tion [which was here read:] This they have commanded me to re-
‘present unto your Lordships, and desire your Lordships will joyn

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with them in a tender of the like advice unto His Majesty in approbation of His Royal Intendments.

And likewise, that His Majesty may be moved in the Name of both Houses, to recommend this Business unto His Parliament of Scotland, to have the consent and furtherance of that Kingdom; that as we be Brethren in mutual affection, in an equaltye of duty and allegiance unto the King our Sovereign; so we may be Brethren also in the same tender Care, and loving Zeal, for the good and support of His Majesties Kindred, and their Restitution, with their ancient Inheritance, and the safety of the Reformed Churches.

Directions for the due execution of the Office of Clark of the Market of His Majesties Household, throughout this Realm of England, and Dominion of Wales: And for the Surveying and Sealing of the constant Reel appointed to be used by all Clothiers and workers in Cloth and Yarn, and for the encrease of the Poors Wages labouring therein;

Reciting,

Concerning
the Clark of
the Market,
and the constant Reel.

Whereas several Complaints have been heretofore made, as well unto King James of ever Blessed Memory, in His Life-time, and unto His Majesty that now is, as unto the Lords and others of His Majesties most Honourable Privy-Council, and to divers of His Majesties Justices of Assize in their Circuits, and Justices of Peace of fundry Counties in His Majesties Realm at their Sessions, of the great abuses, deceits, and falsities, frequently used by and among Weavers, Combers, Spinsters, and other Workers and Makers of Woollen-Cloth and Yarn, by the daily falsifying their Yarn, as well in the length of the Reel-staff, as in the number of the Threads, and of the differences grown among themselves concerning a constant Reel for the Reeling of Yarn to be kept, and for the encrease of the Wages for the Poor, according to the Statutes *quinto Eliz.* and *primo Jacobi*, for remedy and reformation whereof, and for settling of a constant Course for the said Reel, and encrease of the Poors Wages, it hath been upon great advice thought fit, that the said Course of keeping of a constant Reel throughout all the Cloathing-Countries of this His Majesties Realm of England, and Dominion of Wales, and the encrease of the Wages for the Poor, might proceed and go on for the general good of the whole Common-wealth: And in regard the Reel-staff had had been lately encreased a fifth or sixth part longer than had been accustomed, all Spinsters should have for the Spinning and Reeling of Six double Knots on the double Reel, or Twelve on the single Reel, a Penny, which is more by Two-Pence in the Shilling than formerly they have had: And that all Labourers, and other Artificers imployed about the Trade of Cloathing, and Yarn-making, should have the like encrease of Wages. And for establishing the same, His Majesty hath, by His Letters

Letters Patents, bearing date the 22^d day of *January* now last ^{12 Caroli.}
 past, for Himself, His Heirs and Successors, willed, ordained, and
 appointed, as well for avoiding all future deceit in making of
 Cloath and Yarn and for preservation of Peace between Buyer
 and Seller, Workmaster and Servant; and all Clothiers, Weavers,
 Combers, Spinsters, and other Workers Makers of Cloath
 and Yarn, either Woollen or Linnen, within this Realm of
England, and Dominion of *Wales*, that there be a constant Reel
 provided and kept by all and every Cloathier, Weaver, Comber,
 Spinster, and other Workers and Makers of Cloath and Yarn,
 either Woollen or Linnen, within all and every the Counties of
 this Realm of *England*, and Dominion of *Wales*, and all Cities,
 Burroughs, and Towns-Corporate, and other places where the
 making of Cloath or Yarn, either Linnen or Woollen, is used,
 the said Reel to be called a Cloath-Reel, or Reel-staff, and to be
 of one yard about the single Reel, and two yards or two ells a-
 bout the double Reel, every knot containing fourscore threds, for
 all Yarn whatsoever both Woollen and Linnen, the same to be
 kept and continued as a constant Reel between Buyer and Seller,
 Workmaster and Servant, whereby the truth of the same may
 appear to all persons trading in Cloath or Yarn; the Surveying,
 Searching, Sealing, and oversight whereof, as of the encrease
 of the Wages of the Poor, His Majesty hath by His said Letters
 Patents committed and appointed unto His well-beloved Servant,
John Etherington, one of the Yeomen of His Majesties Chamber,
 and to *Henry Stracey*, for the term of one and thirty years, with
 the like Fees and Allowances for the same their Service, as the
 Clark of the Market of our Household hath for Weights and Mea-
 sures; a Schedule whereof is hereunto annexed: and that they
 attend their said Service but once a-year as the Clark of the Mar-
 ket doth, and that they and the said Clark of the Market do travel
 and sit together, as shall be most commodious for themselves, and
 the good ease of the Commons; as by His Majesties Letters Pa-
 tents more at large appeareth.

And whereas His Majesty hath been informed, that many un-
 conscionable persons within this His Realm of *England*, and Do-
 minion of *Wales*, have and do use several Weights and Measures,
 with the greater to buy, and with the lesser to sell, and do also
 use false and deceitful Beams and Ballances, to the great loss and
 defrauding of His Majesties Subjects, and especially of the poorer
 sort, who are most sensible of the same: And whereas the Clark
 of the Market, by the Laws and Statutes of this Realm, ought
 by his Office to inquire of the said Abuses, and punish and reform
 the same, and ought also to set reasonable and indifferent Rates
 and Prices upon Victual, and other Provisions, chiefly in times of
 His Majesties Progress, and to foresee that the same be wholesom,
 and of good condition and quality in their several sorts; and ought
 also to inflict as well pecuniary as corporal punishment upon the
 Offenders, according to the several qualities and degrees of their
 offences: And whereas complaint hath been made unto Us, of the
 great negligence used in the execution of the said Office, partly
 for that divers which are trusted as Deputies to execute the same,
 have been hitherto ignorant what their Power and Authority is,

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and partly because divers of them have been very careless and remiss, and respecting only their own private gains, extort unjust Fees, and either for favour or reward spare the Offenders, and neglect the publick Service wherewith they are trusted.

And because the Clark of the Market of His Majesties Household, and His Deputies, may be encouraged to execute their Offices and Places with integrity, and may have their just and reasonable Fees allowed, and may not exact unjust Fees or Rewards, to the grief or oppression of His Majesties loving Subjects; therefore His Majesty hath thought fit to limit and express the due Fees which the Clark of the Market, or his Deputies may require and take, as the same hath been heretofore examined and approved of by the Lords, and others then Officers of the Green-Cloath, and so remain recorded in His Majesties Compting-house; a Schedule whereof we have hereunto annexed: and whoever shall take any greater Fee or Reward than by this said Schedule is expressed, upon Complaint made by any of His Majesties loving Subjects, finding themselves justly grieved therewith, to the Lord Steward, Treasurer, or Comptroller of His Majesties Household, the Party offending shall have his deserved punishment, and the Party wronged speedy recompence for the same.

And to the intent that His Majesties Service may be the better performed, we straitly charge and command the Clark of the Market that he make no Deputy or Deputies from henceforth, but such as shall be of sufficiency and ability to perform the Place, and which shall not be either Vintner, Inn-holder, Victualler, or other Tradesmen using the Trade of buying and selling: and that this His Majesties Proclamation, for the better instructing of all His loving Subjects, shall, before the Feast of St. Michael the Arch-Angel now next coming, be proclaimed in every Market-Town throughout this Realm of *England*, and Dominion of *Wales*, and be hanged up and fastened in a Table in every Market-place by an Officer, where it may continue to be seen and read by any that will: And further, that it shall be read in every Parish-Church before the said Feast of St. Michael the Arch-Angel next coming, immediately after Evening-Prayer, upon the *Sunday* or Holy-day, by the Minister or Clark of the Church; and so from thenceforth at every Feast of the Annunciation of the Blessed Virgin *Mary*, and the Feast of St. Michael the Arch-Angel, by the space of five years next coming, and shall be hanged up and preserved in every Church in a Table, to be seen and read at all times by any that will; and that the defaults of Officers, Ministers, Clarks, and Churchwardens in this behalf, shall be inquired of, and punished by His Majesties Justices of Assize, and Justices of Peace in their Sessions, according to their discretions, as contemners of His Majesties Royal Commandment.

And His Majesty doth straitly will and command, That all His Justices of Assize, Justices of Peace, Sheriffs, the Clark of the Market, his Deputy and Deputies, and the said *John Etherington* and *Henry Stracey*, their Deputy or Deputies, and all Majors, and other Officers of Cities, Burroughs, Liberties, and Towns-Corporate, High-Constables, Petty-Constables, Tything-men, and other His Majesties Officers and Ministers in all Places whatsoever,

ever do cause this present Proclamation to be duly executed, and be from time to time aiding and assisting to their utmost to the Clark of the Market, and his Deputies, and to the said *John Etherington* and *Henry Stracey*, their Executors, Administrators and Assigns, and their Deputies, in the due execution of their Offices respectively; and that the said Clark of the Market, as well now as hereafter, for the time being, be also aiding, furthering, and assisting unto the said *John Etherington*, and *Henry Stracey*, their Deputy and Deputies, in the due execution of their said Office, as they and every of them tender His Majesties Service herein, the Common-wealth of this Realm, and His Majesties high displeasure.

12 Caroli.

A Declaration of the Fees anciently belonging to the Clark of the Market, for the execution of his Office.

Imprimis. FOR Sealing of every new Bushel, for entring of the same, with the name and dwelling place of the owner thereof, } 4 d.

Item, For Sealing every half Bushel, for entring the same, the owners name and dwelling-place, } 2 d.

Item, For new Sealing every lesser Measure or Weight, for entring the same, with the Names, and Dwelling-places of the owners thereof, } 1 d.

Item, For Recording every Victuallers Name, his Dwelling-Place, and for viewing and examination of every particular Victuallers Ale and Beer-Measures, be they never so many, and for entring the same, } 2 d.

Item, For Recording of every Inn-holders and Vintners Name and Dwelling-place, and for viewing and examination of every particular Inn-holders and Vintners Ale, and Beer, Wine, and Hoftry-measures, be they never so many, and for entring the same, } 4 d.

Item, For Recording of the Names and Dwelling-places of every Butcher, Grocer, Chandler, Mercer, Draper, Clothier, or any other Person, entring of all their Weights, Measures, Ells, Yards, Beams and Ballances, and for trying and examination of the same, be they never so many, } 2 d.

Item, For new Sealing of every Ell or Yard at both ends, entring the same, with the Names and Dwelling-places of the owners thereof, } 2 d.

Item, For trying and examination of every Bushel formerly Sealed, entring of the same, with the Name and Dwelling-place of the owners thereof, } 2 d.

Item,

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Item, For trying and examination of every lesser Measure formerly Sealed, entring the same, with the Name and Dwelling-place of the owners thereof, } 1 d.

Item, For trying and examination of every Weight and Measure of any person or persons that shall be found repugnant to His Majesties Standard, which shall sell any Commodities by a lesser Weight or Measure, or shall buy any Commodities by a greater or lesser Measure, to the deceit of the Subjects, } 2 d.

The Fees to be taken for the Sealing and Surveying of the constant Reel, and for the oversight of the encrease of the Poors Wages, working in the making of Cloath.

Imprimis, For Sealing of the constant Reel of two Yards, or two Ells about, and for Recording and Registring of the Names and Dwelling-places of the owners thereof, the like Fee as for the Bushel, } 4 d.

Item, For Sealing the single Reel, and for Recording and Registring the Names and Dwelling-places of the owners thereof, } 2 d.

Item, For the trying, examination, and oversight of the double Reel being once Sealed, and for Registring the Names and Dwelling-places of the owners thereof, } 2 d.

Item, For the trying, examination, and oversight of the single Reel, and for Registring of the Names and Dwelling-places of the owners thereof, } 1 d.

Item, For the oversight of the encrease of the Poors Wages, working in the making of Cloath, } *Gratis.*

Concerning
the Pope's
Nuntio in
England.

AT the latter end of this Year Seignior Gregorio Panzani, the Popes Nuntio in England, and Major Bret, our English Agent at Rome from the Queen, being discharged from their Negotiations, Seignior Gregorio Con (a Scot) was appointed by the Pope to succeed Panzani as his Nuntio, and Sir William Hamilton (a Scot) sent hence Ledger to Rome.

Before this time the Congregation of propagating the Faith at Rome, having good hopes of the Conversion and Reduction of England to their obedience, constituted Cardinal Barbarino, Nephew and Vice-Chancellor to the late deceased Pope, Patron and Protector of the English and Scottish Nations, as Cardinal Ludovicus was of the Irish; who to facilitate their Design, erected a special Society of four Orders of Jesuits in England, whereof the Popes Legate for the time being, residing in England, was chief Patron, and Cardinal Barbarino the Principal Superintendent.

Titles

Titles of Proclamations for the Year 1636.

- A** Proclamation commanding all *Mariners*, and others to His Majesties Ships, for which they are *Prest*. Westminster, April 15.
- A Proclamation inhibiting all Persons to repair to His Majesty for Cure of the Disease called the Kings-Evil until *Michaelmas* next. Westminster, April 7.
- A Proclamation to forbid the Importing, Buying, Selling, or Publishing any Foreign Edition of a Book lately printed at *London* by His Majesties Command, Intituled *Mare Clausum*. Westminster, April 15.
- A Proclamation prohibiting the wearing, buying or selling of *Counterfeit Jewels*. Whitehall, April 18.
- A Proclamation declaring His Majesties Pleasure touching *Orders* to be observed for prevention of dispersing the *Plague*. Westminster, April 22.
- A Proclamation touching *Books first Printed* here, and after printed beyond the Seas. Westminster, May 1.
- A Proclamation for Restraint of *Fishing* upon His Majesties Seas and Coasts without Licence. Westminster, May 10.
- A Proclamation inhibiting the Importation of *Whale-Fins* or *Whale-Oyl*, into His Majesties Dominions by any but by the *Muscovia Company*. Westminster, May 16.
- A Proclamation for adjournment of part of *Trinity-Term*. Hampton-Court, May 27.
- A Proclamation for the due execution of the Office of *Clark of the Market* of Our Household, and throughout Our Realm of *England*, and Dominion of *Wales*, and for the Surveying and Setling of the *Constant Reel* appointed to be used by all *Clothiers*, and Workers in Cloth and Yarn; and for the increase of the *Poors Wages* labouring therein. Oatlands, July 9.
- A Proclamation for the putting off *Tutbury Fair* in the County of *Stafford*, and of the Musicians or Minstrel-Court there. Windfor, July 18.
- A Proclamation prohibiting the keeping of *Bartholomew-Fair*, and our *Lady-Fair* in *Southwark*. July 26.
- A Proclamation to prohibit the keeping of this next *Sturbridge-Fair*. Warwick-Castle, August 20.
- A Proclamation for the further Adjourning of *Michaelmas-Term*. Windfor, October 2.
- A Proclamation for a *General Fast* to be weekly observed throughout the Realm of *England*. Newmarket, October 18.
- A Proclamation for *Cleansing the River of Thames* of Shells and Annoyances, and for Ballasting of Ships with the Sand and Gravel thereof. Windfor, November 28.

An. 1636.

Hampton-Court,
December 11.

A Proclamation for the revocation and repeal of certain *Letters Patents*, and of part of a Proclamation lately published for the keeping of a *Constant Reel* in Clothworking, and for the increase of the Poors Wages labouring therein.

Hampton-Court
January 3.

A Proclamation for the *Pricing of Wines*.

Westminster,
February 20.

A Proclamation prohibiting the Importation of *Gunpowder*, and that His Majesties Subjects may be constantly supplied out of His Majesties Store-houses.

Westminster,
February 24.

A Proclamation declaring His Majesties Pleasure in the *Incorporating of the Tradesmen* and Artificers inhabiting within two Miles of the City of *London*.

Westminster,
March 5.

A Proclamation for putting off the Healing of the *Kings-Evil* at *Easter* next.

Historical

Historical Collections

For the Year 1637.

The Arch-Bishop of Canterbury's Diary.

T *Hursday*, I Christned the Lady Princess *Ann*, King *Charles* His second Daughter; she was born on *Fryday March* the 17th.

March 30. The Arch-bishop of Canterbury's Diary.

June 10th. My Book of Records in the Tower, which concerned the Clergy, and which I caused to be Collected and Written in Vellam, was brought me finished; 'tis *ab Anno 20 Ed. 1. ad Ann 14 Ed. 4.*

June 14. This day *John Bastwick* Dr. of Physick, *Henry Burton* Batchelor of Divinity, and *William Prynne* Barrester at Law, were censured for their Libels against the Hierarchy of the Church.

The Speech I then spake in the *Star-Chamber* was commanded by the King to be Printed; and it came out *June 15.*

June 26. This day *Monday*, the Prince *Electo*r, and his Brother Prince *Rupert* began their Journey towards the Sea-side, to return for *Holland.*

June 30. Fryday, The above-named three Libellers lost their Ears.

July 7. Fryday, A Note was brought to me, of a short Libel posted on the Cross in *Cheapside*, that the Arch-Bishop of *Canterbury* had his hand in persecuting the Saints, and shedding the blood of the Martyrs, *Memento* for the last of *June.*

Tuesday, July 11. Dr. *Williams* Lord Bishop of *Lincoln* was censured in the *Star-Chamber*, for tampering and corrupting of Witnesses in the King's Cause.

July 24. being *Monday*, he was suspended by the High-Commission, &c.

August 3. Thursday, I Married *James* Duke of *Lenox*, to the Lady *Mary Villers*, sole Daughter to the Lord Duke of *Buckingham*; the Marriage was in my Chappel at *Lambeth*, the day Rainy, the King present.

August 23. Wednesday, My Lord Mayor sent me a Libel found by the Watch at the *South-Gate* of *Paul's*, that the Devil had left that House to me, &c.

August 25. Another Libel brought to me by an Officer of the High-Commission, fastned to the *North-Gate* of *St. Paul's*; that the Government of the Church of *England* is a Candle in the Snuff, going out in a Stench. The same day at night my Lord Mayor sent me

An. 1637.

me another Libel, hanged upon the Standard in *Cheapside*; my Speech in the *Star-Chamber* set in a kind of Pillory, &c.

Tuesday, August 29. Another short Libel against me in Verse.

Sunday, October 22. A great noise about the perverting the *Lady Newport*; Speech of it at the Council; my free Speech there to the King concerning the encreasing of the Roman Party; the freedom of *Denmark-House*; the carriage of Mr. *Walter Montague*, and Sir *Toby Mathew*. The *Queen* acquainted with all I said the very night, and highly displeased with me, and so continues.

December 12. Tuesday, I had speech with the *Queen* a good space, and all about the business of Mr. *Montague*, but we parted fair.

*Prynn, Bastwick
and Burton,
June 14.*

IN *Trinity* Term this year there came a remarkable cause to Hearing, and Censure in the *Star-Chamber* upon the information of the King's Attorney-General against *John Bastwick* Doctor in Physick, *Henry Burton* Batchelor of Divinity, and *William Prynn* Barrister at Law, Defendants.

The Scope of the Information against these Defendants, was for Writing and Publishing Seditious, Schismatical and Libellous Books against the Hierarchy of the Church, and to the Scandal of the Government.

To this Information the Defendants prepared their Answers, but their Council were backward to sign them, for fear of offending the Court of *Star-Chamber*, but it was said on the other side, that their Answers were of that nature as their Council thought not fit to sign them. The Defendants did petition the Court that to ancient Presidents they might sign their own Answers with their own Hands, and declared that they would abide by the censure of the Court if they did not make good what was contained therein, which was refused by the Court, unless they brought their Answers signed by Council; then they tendred to the Court a cross Bill, wherein they set forth the substance contained in their Answers, and desired it might be accepted, but neither was admitted of by the Court; so it was declared by the Court that the Answers of Mr. *Prynn* and Dr. *Bastwick* not coming into Court in regular way, in due time, according to the course of that Court, they should be proceeded against, *pro confesso*; yet *Prynn* and *Bastwick* left their Answers signed with their own hand at the Office, and also tendred another draught thereof to the Court.

Mr. *Burton's* Answer was afterwards signed by Mr. *Holt*, a Benchler of *Graves-Inn*, which the Court referred to the two Chief-Justices to consider of, and to expunge what was contained therein as unfit to be brought into Court, or was otherwise scandalous, and they expunged the whole Answer except six lines at the beginning, and three or four at the later end; Mr. *Burton* demanded the justice of the Court not to give way to that purgation of his Answer by the two Chief-Justices, for that neither he or his Council were heard before the said Judges, what they could say in defence of their Answer; but it was ordered by the Court, that if he would not swear the Answer as it was expunged, and answer to Interrogatories, he should be proceeded against *pro confesso*.

Mr. *Burton* in his Answer did set forth the substance of his Sermon, which he Preached the fifth of *November*, at his Parish-Church

Church in *Fryday-street*, the Contents of which in part appears in the Arch-Bishop of *Canterburies* Speech in the *Star-Chamber*; in which Mr. *Burton* charges the Arch-Bishop,

1. That in the Epistle the *Sunday* before *Easter*, we have put out (*In*) and made it (*At*) the Name of *Jesus* every Knee shall bow, which alteration he saith is directly against the Act of Parliament.

2. That the next Innovation, and that two places are changed in the Prayers set forth for the fifth of *November*, and ordered to be read (they say) by Act of Parliament. The first place is changed thus, From, *Root out the Babilonish and Antichristian Sect, which say of Jerusalem, &c.* into this form of words, *Root out that Babilonish and Antichristian Sect (of them) which say, &c.* The second place went thus in the old, *cut off those workers of Iniquity, whose Religion is Rebellion.* But in the Book Printed 1635, it's thus altered, *Cut off those Workers of Iniquity who turn Religion into Rebellion.*

Next, that the Prayer for the Navy is left out of the late Book for the Fast.

And in the Book entituled *News from Ipswich*, fol. 2d there is mention made of the first Innovation in the last years Fast as enjoined to be without *Sermons* in *London*, the Suburbs and other Infected places contrary to the Orders of other Fasts in former times, they say, whereas Sermons are the only means to humble men, &c.

The second Innovation, they say, is, That *Wednesday* was appointed for the Fast-day, and that this was done with this intention, by the example of this Fast without Preaching, to suppress all the *Wednesday* Lectures in *London*.

The third Innovation is, That the Prayer for seasonable Weather was purged out of this last Fast-Book, which was (say they) one cause of Shipwracks and Tempestuous Weather.

The fourth Innovation is, That there is one very useful Collect left out, and a Clause omitted in another.

The fifth Innovation is, That in the sixth Order for the Fast, there is a passage left out concerning the abuse of fasting in relation to merit.

The sixth Innovation is, That the Lady *Elizabeth* and her Princely Children are dashed (that's their Phrase) out of the new Collect, whereas they were in the Collect of the former Book.

The seventh Innovation is, That these words (who art the Father of thine Elect, and of their seed) are changed in the Preface of that Collect, which is for the Prince and the King's Children, and with a most spiteful Inference, That this was done by the Prelates to exclude the King's Children out of the number of God's Elect; and they call it an intolerable Impiety and horrid Treason.

In Dr. *Bastwick's* Answer there were these Passages, That the Prelates were Invaders of the King's Prerogative-Royal, Contemners and Despisers of the whole Scriptures, Advancers of Popery, Superstition, Idolatry and Prophanes; also that they abused the King's Authority to the oppression of His Loyal Subjects, and therein expressed great Cruelty, Tyranny and Injustice; and in the execution

13 Caroli.

all
true

An. 1637.

of this impious performance, they shewed neither Wit, Honesty nor Temperature, nor were they either servants of God or of the King, (as they ought to be indeed) but of the Devil, being Enemies of God and the King, and of every living thing that was good. All which the said Dr. *Bastwick* declared he was ready to maintain.

Mr. *Prynn* his Answer was much against the Hierarchy, but in more moderate and cautious expressions, and in the conclusion of his Answer said, that what was contained therein, and which he then tendred to the Court, though not accepted, he would stand to and make it good, and abide the Censure of the Court, if he failed to do the same, might his Answer be but read.

All the said three Defendants standing at the Bar, the Court caused the Information to be read, and no Answer being put in, nor filed on Record, in the Court, the Court began to proceed to Sentence. But the Defendants before the Court spake, cryed out for Justice, that their Answers might be read, and that they might not be condemned unheard: nevertheless the Court proceeded, because their Answers were not filed on Record; and the Lords continued speaking till three of the Clock in the Afternoon, whose Speeches we took verbatim in Characters, and writ them out afterwards at large, but lending them to a Friend to peruse, whom we cannot call to mind, he dealt unfriendly with the Author, and never restored them again: wherefore he is necessitated to be brief in the narration of this remarkable Cause, which he had reduced into good order and method, containing also Excellent Speeches made that day in that Cause.

The Court proceeded to Sentence, and fined each of the Defendants, *Prynn*, *Bastwick* and *Burton*, 5000 l. a-piece to the King, and adjudged the two latter to stand in the Pillory at *Westminster*, and there to lose their Ears; [and that Mr. *Prynn* having once lost his Ears before, by sentence of this Court, Anno 1633] whereof he was now sentenced to have the remainder of his Ears cut off, and also it was decreed that he should be stigmatized on both Cheeks with S.L. signifying a *Seditious Libeller*. And in June 30 the above-named three Defendants lost their Ears, the Hangman rather sawing off the remainder of *Prynn*'s Ears, than cutting them off; they were all likewise committed close Prisoners, one to the Castle of *Lanceston* in *Cornwall*, another to the Castle of *Lancaster*, and a third to *Carnarvan*-Castle in *Wales*, and afterwards removed to remote Islands, where they were kept close Prisoners; the Wives of *Bastwick* and *Burton* not being allowed after many Petitions to have access unto them, nor to set footing in the Island; neither was any Friend permitted to have access to Mr. *Prynn*.

Here followeth part of the Arch-Bishop of *Canterburies* Speech, in reference to the said Innovations charged upon him by the Prisoners at the Bar; to every one of which the Arch-Bishop gave a particular Answer; but for clearer satisfaction read the Speech at large in the Appendix.

My

This is
following of
Christ with
a hit to his
own Devils
as I said
could be
suffered to
live and
act is not
like
in

My Lords,

I Shall not need to speak of the infamous course of Libelling in any kind, nor of the punishment of it, which in some cases was Capital by the Imperial Laws, as appears.

Nor how patiently some great men, very great men indeed, have borne *Animo civili* (that's *Sueton* his words) *Laceratam estimationem*, the tearing and rending of their Credit and Reputation, with gentle, nay, a generous mind.

But of all Libels, they are most odious which pretend Religion; as if that of all things did desire to be defended by a Mouth that is like an open Sepulcher, or by a Pen that is made of a sick and loathsome Quill.

For my care of this Church, the reducing of it into Order, the upholding of the External-Worship of God in it, and the settling of it to the Rules of its first Reformation, are the Causes (and the sole Causes, whatever are pretended) of all this Malicious Storm, which hath lowred so black upon me, and some of my Brethren; and in the mean time, they which are the only, or the Chief Innovators of the Christian World, having nothing to say, accuse us of Innovation; they themselves and their Complices in the mean time being the greatest Innovators that the Christian World hath almost ever known. I deny not but others have spread more dangerous Errors in the Church of Christ; but no men in any age of it have been more guilty of Innovation than they, while themselves cry out against it, *Quis tulerit Gracchos*.

And a great trouble 'tis to them, that we maintain that our Calling of Bishops is *Jure Divino*, by Divine Right. Of this I have said enough, and in this place, in *Leighton's Case*, nor will I repeat: Only this I will say, and abide by it, That the Calling of Bishops is *Jure Divino*, by Divine Right, though not all adjuncts to their Calling. And this I say in as direct opposition to the Church of *Rome*, as to the Puritan humour.

And I say further, That from the Apostles times, in all ages, in all places, the Church of Christ was governed by Bishops; and Lay-Elders never heard of, till *Calvin's* new-fangled devise at *Geneva*.

For the main scope of these Libels, is, to kindle a jealousy in mens minds, that there are some great Plots in hand, dangerous Plots (so says *Mr. Burton* expressly) to change the Orthodox Religion established in *England*, and to bring in I know not what *Romish* Superstition in the room of it, as if the external decent Worship of God could not be upheld in this Kingdom, without bringing in of Popery.

But to return to the business: what is their Art to make the World believe a change of Religion is endeavoured? What! why, forsooth, they say, there are great Innovations brought in by the Prelates, and such as tend to the advancing of Popery.

Now that the vanity and falshood of this may appear, I shall humbly desire your Lordships to give me leave to recite briefly all the Innovations charged upon us, be they of less or greater moment, and as briefly to answer them. And then you shall clearly see whether any cause hath been given of these unfavoury Libels, and

One for the
Power and the
Religion

An. 1637.

Part of the
Arch-Bishop
of Canterbury's
Speech at the
Censure of
Pryn, Bastwick
and Burton.

and withal whether there be any shew of cause to fear a change of Religion; and I will take these great pretended Innovations in order, as I meet with them.

See them in the whole Speech at large.

One thing sticks much in their Stomachs, and they call it an *Innovation* too, and that is, bowing or doing reverence at our first coming into the Church, or at our nearer approaches to the Holy Table, or the Altar, (call it whether you will) in which they will needs have it, that we worship the Holy Table, or God knows what.

To this I Answer, *First*, That God forbid we should worship any thing but God himself.

Secondly, That if to worship God when we enter into his House, or approach his Altar, be an Innovation, it is a very old one.

For Moses did reverence at the very Door of the *Tabernacle*, *Numb. 20.* *Hezekiah*, and all that were present with him, when they had made an end of Offering, Bowed and Worshipped, (*2 Chron. 29.*) *David* calls the People to it with a *Venite*, O come let us worship, and fall down, and kneel before the Lord our Maker (*Psal. 95.*) And in all these places (I pray you mark it) 'tis bodily-worship.

Nor can they say, that this was Judaical-worship, and now not to be imitated; for long before Judaism began, *Bethel*, the House of God, was a place of Reverence, (*Gen. 28.*) therefore certainly of, and to God.

And after Judaical-worship ended, *Venite, adoremus*, as far upwards as there is any track of *Liturgy*, was the *introitus* of the Priest all the *Latine* Church over.

And in the daily Prayers of the Church of *England* this was retained at the Reformation, and that *Psalms*, in which is *Venite Adoremus*, is commanded to begin the Morning-Service every day: And for ought I know, the Priest may as well leave out the *Venite*, as the *Adoremus*; the calling the people to their duty, as the duty it self, when they are come.

Therefore even according to the Service-Book of the Church of *England*, the Priest and the People both are called upon, for external and bodily Reverence and Worship of God in his Church. Therefore they which do it, do not *Innovate*. And yet the Government is so moderate (God grant it be not too loose the while) that no man is constrained, no man questioned, only religiously called upon, *Venite adoremus*, come, let us Worship.

For my own part, I take my self bound to worship with Body, as well as in Soul, when-ever I come where God is worshipped. And were this Kingdom such as would allow no Holy-Table standing in its proper place (and such places some there are) yet I would worship God when I came into his house. And were the times such, as should beat down Churches, and all the curious carved work thereof, with Axes and Hammers, as in *Psalms* 74. (and such times have been) yet would I worship in what place soever I came to pray, though there were not so much as a stone laid for *Bethel*. But this is the misery, 'tis *superstition* now-a-days for any man to come with more reverence into a Church, than a Tin-

ker

ker and his Bitch come into an Ale-house ; the Comparifon is too homely, but my juft indignation at the profaneneſs of the times, makes me ſpeak it.

And you my honourable Lords of the *Garter*, in your great ſolemnities, you do your Reverence, and to Almighty God, I doubt not, but it is *verſus Altare*, towards his Altar, as the greateſt place of God's reſidence upon Earth ; I ſay the greateſt, yea greater than the Pulpit, for there 'tis *hoc eſt Corpus meum*, this is my Body ; but in the Pulpit, 'tis at moſt but, *hoc eſt Verbum meum*, this is my Word. And a greater reverence (no doubt) is due to the Body, than to the Word of our Lord. And ſo in Relation, anſwerably to the Throne where his Body is uſually preſent, than to the Seat, whence his Word uſeth to be proclaimed. And God hold it there at his Word ; for, as too many men uſe the matter, 'tis *hoc eſt verbum Diaboli*, it's the Word of the Devil, in too many places ; Witneſs Sedition, and the like to it. And this reverence ye do when ye enter the Chappel, and when you approach nearer to offer : And this is no Innovation, for you are bound to it by your Order, and that's no new thing.

I humbly crave pardon of your Lordſhips for this my neceſſary length, and give you hearty thanks for the noble Patience, and your juſt and honourable Censure upon theſe men, and for your unanimous diſlike of them and defence of the Church, but becauſe the buſineſs hath ſome reflection upon my ſelf, I ſhall forbear to censure them, but leave them to God's Mercy and the King's Juſtice. See the Speech at large in the *Appendix*.

THe Report of this Censure, and the ſmart execution thereof flew quickly into *Scotland*, and the diſcourſe among the Scots were, that the Biſhops of *England* were the cauſe thereof, that they muſt expect to have a *Star-Chamber* erected in their Kingdom to ſtrengthen their Biſhops power there, beſides the High-Commiſſion which was there already erected : and about this time a ſtrange accident happened in offering an affront to a Biſhop at *Edenburgh* as followeth.

On the 23^d of *July* next following the ſaid Censure of *Prynn*, *Baſtwick* and *Burton* (being five Weeks and odd Days) there happened a great Tumult at *Edenburgh* in *Scotland* about the in-bringing of the Service-Book or Common-Prayer ; where no ſooner was the *Liturgy* begun to be read at the great Church in *Edenburgh* (the Biſhop and Dean being in their Whites) but the People in the Church with great outcries and clamors threw a Stool at the Head of the Biſhop, crying a *Pape*, a *Pape*, *Antichriſt*, *Antichriſt*, *ſtane him*, *ſtane him* ; and the Magiſtrates then preſent had much to do to preſerve the Biſhop from the fury of the People ; but of this Tumult more fully hereafter.

Concerning which Tumult the Arch-Biſhop of *Canterbury* makes this Memorial in his Diary on *April* 29. 1638. viz. The Tumult in *Scotland* about the Service-Book offered to be brought in, began *July* 23. 1637. and continued increaſing by fits, and hath now brought that Kingdom in danger ; no queſtion but that there is a great concurrence between them (meaning the *Scotch* Covenanters) and the *Puritan* party in *England*, having a great aim there to deſtroy me in the King's opinion, &c.

Now

13 Caroli.

no they wrote
Mammon is
made them
Knights of the
Garter

An. 1637.

A Summary
Account of
the Commotions in Scotland from July
23. 1637.

Now that we are come in order of time to make mention of the Tumults and disorders in *Scotland* about the Service-Book, we beg leave for a while to make a step into *Scotland* before we proceed further at present in home-affairs, and accept a Summary Account of the Rise, Progress, and several steps in that Tumult, and the Consequences which thereupon followed.

Preparations for divers years by-past were made for the in-bringing of the Service-Book into *Scotland*, to have Uniformity in Divine Worship, and Church-Government between the two Kingdoms: formerly the Prelacy was quite or almost ruined in *Scotland*, but in latter times by degrees built up again, by all the ways and means which King *James* the 6th and King *Charles* the 1st could devise, though with great averfeness of the Noble-men, Gentry, and the greater part of the Ministry; and by this time that Work was almost brought to perfection, for of the fourteen *Scottish* Bishops nine were Privy-Councillors; the Arch-Bishop of St. *Andrew's*, Primate of *Scotland*, was also Lord Chancellor, and many of the rest had also good State-employments, and gainful Offices in the Civil, and had all the Ecclesiastical in their own Power; for the Layicks, who were joyned with them in Commission, for most part declined that Employment.

Since the Synod held at *Perth* in the Year 1618, they had no National Assembly, yet there remained a kind of Face or Name of Provincial Synods, Presbyteries, and Parochial Sessions.

But of late the High-Commission was erected, and a Book of *Canons* for that Church set forth by the King's Authority, and all the Subjects of *Scotland* were injoyn'd to submit to the Episcopal Censure; and then their Consistories, Classes, and Presbyteries, were held in the nature of Conventicles, and there remained not the shadow of their former Ecclesiastical Policy.

Moreover a Liturgy for that Church being framed, and at this time finished, and ordered to be Published by Royal Authority, and to be received throughout that whole Kingdom, His Majesty Published His Reasons for Imposing the same to this effect.

That King
James, after
His coming
into *England*,
promoted that
work in his
life time.

That His Father of Blessed Memory, immediately after His coming into *England*, comparing the decency and uniformity of God's Worship here in *England*, observed (especially in the Liturgy of the Church) with that diversity and deformity in *Scotland*, where no set or publick form of Prayer was used, bethought Himself seriously how His first Reformation in that Kingdom might begin, at the publick Worship of God, and chiefly by an Unity and Uniformity in the publick Prayers and Service of the Church. Concerning which divers Consultations were had with the Bishops, and others of the Clergy of most eminent Note in that Kingdom: But those deliberations received some opposition, and many intermissions till the Year 1616, in a general Assembly held at *Aberdeen*, His Royal Father by His Letters and vehement Instance of His Commissioners there present, made the necessity of a publick Liturgy apparent. A Book in pursuance of an Act of that Assembly was framed by those that were deputed for that purpose, and was by the Arch-bishop of St. *Andrew's* sent up to His Royal Father,

Father, who punctually perused it, and had it revised by some of that Kingdom here in *England*; and after His and their Observations, Additions, Mutations, Expunctions, He sent it back to be recommended to that whole Church, being for substance, frame, compofure much about one with that which was now commended to them: Which had been then received, if the King His Father had not died, whilst these things were in doing, before they could receive their Period. That which moved King *James* to hasten that Liturgy, and an High-Commission-Court, was to curb such of His Subjects in *Scotland* as were inclined to Puritanism, and who would be meddling with State Matters in their Pulpits, and sometimes not spare the King Himself. His Majesty that now is resolved to pursue that Design, and required the same Service-Book transmitted by His Father to that Church, to be remitted to Him. Which having received (after many serious Consultations had with divers of the Bishops and Clergy of that Kingdom, here present in *England*, and after advice by Letters and Instructions to the rest at home, and after many humble Remonstrances and Advertisements made by them, of the reasons of some alterations for the removing of some conceived difficulties) His Majesty was content the Book should come out as now it was Printed, being fully approved by them. And that this was composed in substance not different from that of *England*, that the *Roman* Party might not upbraid Us with any material differences in Our Liturgies, and yet in some few alterations differing from it, that it might be truly reputed a Book of that Churches own composing, and established by His Royal Authority, as King of *Scotland*.

And that together with this Book His Majesty sent certain Instructions to the Bishops of that Kingdom; that notwithstanding He had established it by Authority, yet they should proceed with all moderation, and dispence with such things contained in the Book as they should find them, either not well perswaded of them, or willing to be informed concerning them, or did hope that time and reason might gain to a better belief of them.

The time appointed for the first reading of the Service-Book in all Churches was *Easter-day* 1637, which was published by Proclamation. At which time (as the King declareth) no symptoms of any considerable opposition did appear; yet upon good consideration, and for the further tryal of Mens minds, the reading of it was delayed till the 23d of *July* next ensuing, to the end that the Lords of the Session, (which in *England* are called the Judges of Causes in Term-time in *Westminster-Hall*) and others who had any Law-business might see the success of it before the rising of the Session, which always ends the first of *August*, and so might, at their return into the Countries, report the receiving of this Book at *Edenburgh*, it being so ordered, that the Book should be read only in the Churches of *Edenburgh*, and Parts adjacent. And notice hereof was published in the several Pulpits the *Sunday* immediately before.

Accordingly on the 23d of *July* the Service-Book was begun to be read in *Edenburgh* in St. *Giles's* Church, (commonly called the great Church) where were present many of the Council,

13 *Caroli.*

King *James* dies whilst the Liturgy was in framing.

King *Charles I.* pursues the same Design, and putteth the Liturgy in print, as now it is composed.

Advising the Bishops to proceed with moderation.

The Liturgy appointed to be read on *Easter-day*.

But deferred till the 23d of *July*.

July 23. 1637.

It met then with interruption.

An. 1637.

A Stool thrown
at the Bishop's
Head.* i. e. Alder-
men.Stones thrown
in through the
Windows into
the Church.The Bishop in
great danger.The Service-
Book read in o-
ther Churches,
but interrup-
ted.The Earl of
Roxborough,
and the Bishop
pelted with
Stones.A Proclama-
tion made a-
gainst the Tu-
mult.

both the Arch-bishops, and divers other Bishops, the Lords of the Session, the Magistrates of *Edinburgh*, and a great Auditory of all sorts of People.

No sooner was the Book opened by the Dean of *Edinburgh*, but a number of the meaner sort (many of them being Women) with clapping of their Hands, execrations and outcries, raised an hideous noise and hubbub. The Bishop of *Edinburgh*, who was to Preach that day, stepped into the Pulpit (being immediately above the Reading-place) with thoughts of appeasing the Tumult, and presently a Stool was thrown at his Head, but diverted by the hand of one present. The Arch-bishop of *St. Andrews*, Lord Chancellor, and other great Persons, having no reverence from the Multitude, but entertained with clamors and imprecations, the Provost, * Bailiffs, and others of the Council of the City, came from their places, and with much ado, and in great confusion, thrust out of the Church those People that had made the Tumult, and shut the Church doors against them. After which the Dean read the Service. But such were the out-cries, rapping at the Doors, throwing in of Stones at the Windows by the Multitude without, who cry'd *a Pape, a Pape, Antichrist, pull him down*, that the Bailiffs of the City were enforced again to leave their places to appease their fury.

Service and Sermon being ended, the Bishop of *Edinburgh*, who had Preached, repairing to his Lodging, distant not many paces from the Church, was invironed and near trodden to death by the People, had he not been suddenly rescued by some who observed his danger, and by whom he was recovered, almost breathless, into his Lodging.

The same Morning the Service was read in the next Church to *St. Giles's*, yet not without noise and tumult, and in the *Gray-fryars* Church, the Elected Bishop of *Argile* beginning to read, was by the Peoples exclamations and threatnings enforced to give over, after the reading of the Confession and Absolution.

Between the two Sermons, the Provost and Bailiffs of *Edinburgh* being called by those of the King's Councils that were in Town, then assembled at the Lord Chancellor's Lodging, undertook to do their uttermost for the peaceable reading of the Service in the Afternoon; accordingly the Book was read in *St. Giles's*, and some other Churches; but after Evening-Prayer the Tumult was far greater than in the Morning; for the Earl of *Roxborough*, Lord-Privy-Seal, returning to his Lodging with the Bishop of *Edinburgh* in his Coach, had his Coach and Coach-man so pelted with Stones, and pressed upon by the Multitude for having the Bishop in it, that they were brought in danger of their lives, and with much ado recovered their Lodging, and were only preserved by the help of his Lordship's Footmen, who with their Swords kept off the croud of People.

The next day the Council caused a *Proclamation* to be made in detestation of this Tumult, and to discharge all tumultuous meetings and concourses of People in *Edinburgh* upon pain of death. The Magistrates and Persons in Authority disavowed these disorders, wherein none of quality had yet appeared.

After

After these things the Magistrates of *Edenburgh* were commanded to assemble the Council of the City, to resolve what course should be held for finding out the Movers and chief Actors in the Uproar, and to make report to the Privy-Council, which report they made accordingly with a detestation of that Tumult, and a promise of their best diligence to find out the Authors and Abettors thereof, and their best assistance for the quiet establishing and reading of the Service-Book in all their Churches.

The Ministers of the City being loth to undertake the reading of it, without security given for the safety of their Persons, the Lords of the Council ordered, that the Provost, Bailiffs, and Town-Council of *Edenburgh*, should advise concerning some Obligatory Act to be made for the peaceable Exercise of the Service-Book, to which they agreed, and promised, that (since their former Readers had refused to read that Book) if in the mean time the Ministers themselves would read it, they would take order for their security, and also for their settled Maintenance; and so an Act was drawn up by the King's Advocate, to which the City-Magistrates assented, and which the Council passed, and entred it into the Council-Book.

This Uproar at *Edenburgh* was highly displeasing to the Court of *England*, and the Arch-bishop of *Canterbury* expressed his thoughts of the management of this Business by the Bishops and others in *Scotland*, in his Letter to the Earl of *Traquair*, dated *August 7. 1637.* in these words.

13 Caroli.

The Magistrates of *Edenburgh* endeavours to discover the Actors in the Uproar.

The Ministers require protection in reading the Service-Book.

August 7.
1637.

*The Arch-Bishop of Canterburies Letter to the Lord Traquair,
Dated August 7. 1637.*

My Lord,

I Think you know my opinion, how I would have Church-Business carried, were I as great a Master of Men, as (I thank God) I am of Things; 'tis true, the Church as well there as elsewhere hath been over-born by violence, both in matter of Maintenance and Jurisdiction: But if the Church will recover in either of these, she and her Governors must proceed, not as she was proceeded against, but by a constant temper she must make the World see she had the wrong, but offer none; And since Law hath followed in that Kingdom, perhaps to make good that which was ill done; yet since a Law it is, such a Reformation or Restitution would be sought for, as might stand with the Law, and some expedient be found out how the Law be by some just exposition helped, till the State shall see cause to abolish it.

His Majesty takes it very ill, that the business concerning the stablishment of the Service-Book hath been so weakly carried, and hath great reason to think himself and his Government dishonoured by the late Tumult in *Edenburgh* July 23. and therefore expects that your Lordship, and the rest of the Honourable Council, set your selves to it, that the Liturgy may be established orderly, and with peace, to repair what hath been done amiss: For His Majesty well knows the Clergy alone have not power enough to go through with a business of this nature; and therefore is not very well satisfied with them, either for the omission in that kind, to advise for assistance of the Lords Council, or for the preparation

An. 1637. or way they took. For certainly the Publication a week before, that on the next Sunday the Prayers, according to the Liturgy, should be read in all the Churches of Edinburgh, was upon the matter to give those that were ill-affected to the Service time to communicate their thoughts, and to premeditate and provide against it, as it is most apparent they did.

Nor is His Majesty well satisfied with the Clergy, that they which are in Authority were not advertized, that they might attend the countenancing of such a Service, so much tending to the Honour of God and the King; And I am verily perswaded, if that accident of the Marriage of your Kinsman had not carried your Lordship out of the City that day, some things would not have been altogether so bad, and my Lord Privy-Seal would have had the better assistance.

Neither was this the best Act that ever they did to send away their Letters apart, without acquainting the Council, that their Advertisements might have come by the same Messenger, together with their joint advice, which way was best to punish the offenders, at least the prime and chief of them, and which to prevent the like disorders; and after so long time of preparation to be to seek who should read the Service, is more than strange to me, unless they think such a business can do it self: but His Majesty, out of His Piety and Wisdom, gave (by the Messenger which the Bishops sent) such full directions, both to the Lords of the Council, and the Lords of the Clergy, as I hope will settle the business from further trouble. But the Proclamation which you have now sent up to the King I have not yet seen.

Of all the rest, the weakest part was the interdicting of all Divine Service till His Majesties Pleasure was further known. And this, as also the giving warning of the publishing, His Majesty, at the first reading of the Lettes, and report of the Fact, checked it, and commanded me to write so much to my Lord of St. Andrews, which I did; and your Lordship, at the Council July 24, spake very worthily against the interdicting of the Service. For that were in effect as much as to disclaime the Work, or to give way to the insolency of the baser Multitude, and His Majesty hath commanded me to thank you for it in His Name; but the disclaiming the Book as any act of theirs, but as it was His Majesties Command, was most unworthy; 'tis most true, the King commanded a Liturgy, and it was time they had one, they did not like to admit of ours, but thought it more reputation for them (as indeed it was) to compile one of their own; yet as near as might be they have done it. Will they now cast down the Milk they have given, because a few Milk-maids have scolded at them? I hope they will be better advised; certainly they were very ill advised, when they spake thus at the Council-Board; but, my Lord, of this there was not one word in the Letter. So I hope they have done with that.

August 7. 1637.

W. Cant.

At this time the Lords of the Council, as they complained to the King of this disorder, so they spared not to lay the greatest blame of it upon the Bishops, which appears from the following Letter written by the Earl of Traquair to the Marquess of Hamilton.

My

My Noble Lord,

AT the meeting of the Council here at Edenburgh the 23d of this instant, we found so much appearance of trouble and stir like to be amongst people of all qualities and degrees, upon the urging of this new Service-Book, that we durst no longer forbear to acquaint His Majesty therewith, and humbly to represent both our Fears and our Opinions, how to prevent the danger at least; our opinions of the way, we would wish His Majesty should keep therein, or before he determine what course to take for pacifying of the present stir, or establishing of the Service-Book hereafter; wherein (all I will presume to add to what the Council hath written) is to intreat your Lordship to recommend to His Majesty, that if he be pleased to call to himself any of the Clergy, he would make choice of some of them of the wisest and most calm dispositions; for certainly some of the leading Men amongst them are so violent and forward, and many times without Ground and true Judgment, that their want of right understanding how to compass business of this nature and weight, doth often breed us many difficulties, and their rash and foolish expressions, and sometimes attempts both in private and publick, have bred such a fear and jealousy in the Hearts of many, that I am confident, if His Majesty were rightly informed thereof, he would blame them, and justly think, that from this and the like proceedings arises the grounds of many mistakes amongst us. They complain'd that the former Ages have taken from them many of their Rents, have robbed them of their Power and Jurisdiction, and even in the Church it self, and form of God's Worship, have brought in some things that require Reformation; but as the deeds of these times, at the least the beginning thereof, were full of notour and tumultuary disorder, so shall I never think it will prove for the good either of God's Service or the King's, by the same ways or manner of dealing to press to rectifie what was then done amiss. We have a wise and judicious Master, who will nor can urge nothing in this poor Kingdom, which may not be brought to pass to His contentment; and I am most confident, if he shall be graciously pleased to hear His faithful Servants inform Him of the truth, he shall direct that which is just and right; and with the same assurance I do promise Him Obedience. The Interest your Lordship hath in this poor Kingdom, but more particularly the Duty you owe to His Majesty, and the true respect I know you have ever carried to His Majesties Honour, and the good of His Service, makes me thus bold to acquaint your Lordship with this business, which in good faith is by the folly and mis-government of some of our Clergy-men, come to that height, that the like has not been seen in this Kingdom of a long time; but I hope your Lordship will take in good part my true meaning, and ever construct favourably the affections of

Traquair.

Edenburgh August

7. 1637.

As

August 7.
1637.
Dr. Burnet's
Memoirs of
Duke Hamil-
ton.

An. 1637.

* Memoirs of
the Dukes of
Hamilton, fo.
29, 30, 31.

As concerning the carriage of the Bishops and Clergy of *Scotland* before these Tumults happened, there is a Learned Person of that Nation, a friend to Moderation in Episcopal Government, and disliking violent Actions of the Covenanters, who hath lately written a * History called *Memoirs*, wherein, among other remarkable things, he hath this Passage.

THe People of *Scotland* had drunk in a deep prejudice against every thing that favoured of Popery: this the Bishops judged was too high, and therefore took all means possible to lessen it, both in Sermons and Discourses, mollifying their Opinions, and commending their Persons, not without some reflections on the Reformers. But this was so far from gaining their Design, that it abated nothing of the Zeal was against Popery, but very much heightened the rage against themselves as favouring it too much.

There were also subtle Questions started some years before in *Holland* about Predestination and Grace; and *Arminius* his opinion, as it was condemned in a Synod at *Dort*, so was generally ill reported of in all Reformed Churches, and no where worse than in *Scotland*: But most of the Bishops, and their adherents, undertook openly and zealously the defence of these Tenets. Likewise the *Scottish* Ministers and People had ever a great respect to the Lord's-day, and generally the Morality of it is reckoned an Article of Faith among them: but the Bishops not only undertook to beat down this opinion, but by their Practises expressed their neglect of that day; and after all this they declared themselves avowed Zealots for the Liturgy and Ceremonies of *England*, which were held by the Zealous of *Scotland* all one with Popery; upon these Accounts it was that they lost all their Esteem with the People.

Neither stood they in better terms with the Nobility, who at that time were as considerable as ever *Scotland* saw them; and so proved both more sensible of Injuries, and more capable of resenting them. They were offended with them, because they seemed to have more Interest with the King than themselves had, so that favours were mainly distributed by their recommendation: they were also upon all affairs, nine of them were Privy-Councillors, divers of them were of the *Exchequer*, *Spottiswood*, Arch-Bishop of *St. Andrew's* was made Chancellor, and *Maxwell* Bishop of *Ross* was fair for the Treasury, and engaged in a high rivalry with the Earl of *Traquair*, then Treasurer, which tended not a little to help forward their ruine. And besides this they began to pretend highly to the Tyths and Impropropriations, and had gotten one *Learmouth* a Minister presented Abbot of *Lindoris*, and seemed confident to get that State of Abbots, with all the Revenue and Power belonging to it, again restored into the hands of Church-men, designing also, that according to the first Institution of the College of Justice, the half of them should be Church-men.

This could not but touch many of the Nobility in the quick, who were too large sharers in the Patrimony of the Church, not to be very sensible of it.

They were no less hateful to the Ministry, because of their Pride, which was cryed out upon as unsupportable. Great Complaints were

were also generally made of Simoniackal Pactions with their Servants, which was imputed to the Masters as if it had been for their advantage, at least by their allowance: They also exacted a new Oath of *Intrants*, (besides what was in the Act of Parliament for obedience to the Ordinary) in which they were obliged to obey the Articles of *Perth*, and submit to the Liturgy and Canons: They were also making daily In-roads upon their Jurisdiction, of which the Ministers were very sensible, and universally their great rigour against any that favoured of *Puritanism*, together with their meddling in all Secular Affairs, and relinquishing their Diocesses to wait on the Court and Council, made them the Object of all Mens fury.

But that which heightned all to a *Crisis*, was their advising the King to introduce some Innovation in the Church by His own Authority; things had prospered so ill in general Assemblies, that they thought of these no more; and in the Parliament 1633, that small addition to the Prerogative, that the King might appoint what *Habits* He pleased to the Clergy, met vigorous opposition, notwithstanding the King seemed much concerned for it, those who opposed it being sharply taken up, and much neglected by His Majesty, which stuck deep in their Hearts, the Bishops bearing all the blame of it.

At this time a Liturgy was drawn for *Scotland*, or rather the *English* re-printed with that Title, save that it had some Alterations, which rendred it more invidious and less satisfactory; and after long consulting about it, and another Book of Canons, they were at length agreed to, that the one should be the form of the *Scottish* Worship, and the other the Model of their Government, which did totally vary from their former Practices and Constitutions; and as if all things had conspired to carry on their ruine, the Bishops, not satisfied with the General High Commission-Court, procured Warrants from the King for setting up such Commissions in their several Diocesses, in which, with other Assessors, Ministers and Gentlemen, all of their own nomination, they might punish Offenders.

That was put in Practice only by the Bishop of *Galloway*, who though he was a Pious and Learned Man, yet was fiery and passionate, and went so roundly to work, that it was cryed out upon as a Yoak and Bondage, which the Nation was not able to bear.

The Bailiffs of *Edenburgh* troubled (at least seemingly) at the Tumult on the 23^d of *July*, writ this ensuing Letter to the Archbishop of *Canterbury*.

Most Reverend Father in God, and our very good Lord,

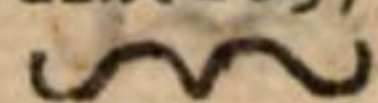
WE regrait from our Hearts that Tumult which did fall out in our Churches, that day of in-bringing of the Service-Book, wherein now these of His Majesties Council, who have laboured the tryal thereof, will give testimony of our Innocency since that time, and how, since the rising of His Majesties Council in this ferial time, we have daily concurred with our Ordinary, and our Ministry for settling of that Service-Book, as the Right Honourable the Earl of *Traquair*, Lord Treasurer, with the Bishops of *Galloway* and *Dunblane*,

August 19.

1637.

A Letter from the Magistrates of *Edenburgh*, concerning the Tumult, to the Arch-bishop of *Canterbury*.

An. 1637.



Dunblane, will bear witness, who have spared neither pains nor attendance to bring that purpose to a good Conclusion.

And although the poverty of this City be great, (being almost exhausted with publick and common works) yet we have not been wanting to offer good means, above our power, to such as would undertake that Service; and in all things wherein we have been required, we have ever been ready, really to approve our selves obedient, and Loyal Subjects to His Majesty in all His Royal Commandments, which we have ever vowed to observe to our lives end. And being infinitely obliged to your Grace's Favours, we now presume, by these Lines, to give your Grace that assurance of obedience upon our part in this purpose, and in all other purposes, wherein we may contribute to the advance of His Majesties Service, or can be expected of good Subjects, whereof, (if His Majesty by your Grace shall be pleased to rest assured, whatsoever any other shall suggest) we will accept it from you as a great accumulation of favour; for all which your Grace shall ever find us most thankful Remembrancers, and most ready really to express our thankfulness, when-ever we shall be made so happy, as your Grace shall have occasion to use our Service. Thus from our Hearts wishing you all Happiness, we kiss your Grace's Hands.

Edenburgh this 19th of
August 1637.

Your Grace's most Affectionate and
Humble Servants, the Bayliffs of
Edenburgh,

J. Cockrane,
An. Ainslie,
J. Smith,
Ch. Hamilton, } Bailiffs.

Divers Ministers and People furiously opposed the reading of the Service-Book, and presented this following Petition to the Lords of the Council; beginning thus:

My Lords of Secret Council. Unto your Lordships humbly means and shews,

WE your Subjects Mr. Alexander Henderson, Minister at Len-
chars, Mr. John Hamilton, Minister at Newburne, and Mr.
James Bruce, Minister of Kings-Barnes, that where we were re-
quired of late, by the Moderator of our Presbytery, to receive
two Copies of the new Book of Common-Prayer, and declaring
our selves willing, each of us to receive any of the said Books to
read, that we might know what is therein contained before we
could promise to practise it; alledging, that in the matters of
God's Worship we were not bound to blind obedience. It was
refused by us, and taken out of some of our Hands; and yet we
are now charged with Letters of Horning, decreed by your Lord-
ships upon a Narrative, that we have refused the said Books out of
Curiosity and Singularity. To provide each one of us two of the
said Books for the use of our Paroches, which hath made us, who
were never before acquainted with any Charge from Authority,
and knowing no other way so just and void of offence to have re-
course

13 Caroli.
 course to your Lordships; most humbly entreating, that the Charge may be suspended for the Reasons following. *First*, Because this Book is neither warranted by the Authority of the *General Assembly*, which are the *Representative Kirk* of this Kingdom, and hath ever since the Reformation given directions in matters of God's Worship, nor by any Act of Parliament, which in things of this kind hath ever been thought necessary by His Majesty, and the Estates. *Secondly*, Because the Liberty of the true Kirk, and the form of Worship, and Religion, received at the Reformation, and universally practised since, were warranted by the Acts of the General Assemblies, and divers Acts of Parliament, especially of the Parliament 1527, and the late Parliament 1633. *Thirdly*, The Kirk of *Scotland* is a free and Independent Kirk, and her own Pastors should be most able to discern and direct what doth best beseem our measure of Reformation, and what may seem most for the good of the People. *Fourthly*, It is not unknown to your Lordships what disputing, division, and trouble hath been in this Kirk, about some few of the main Ceremonies contained in this Book, which being examined, as we shall be ready (a competent time being assigned by your Lordships) to shew, will be found to depart far from the form of Worship and Reformation of this Kirk, and in Points most material to do all near to the Kirk of *Rome*; which for Heresies in Doctrine, Superstition and Idolatry in Worship, Tyranny in Government and Wickedness every way, is as Antichristian now as when we came out of her. *Fifthly*, The People have been otherwise taught by us, and our Predecessors in our Places, ever since the Reformation, and so it is likely they will be found unwilling to the change when they shall be assayed, even where their Pastors are willing. In respect whereof the said Letters of *Horning*, whose effect and execution thereof ought to be suspended *simpliciter* in time coming. Therefore we beseech your Lordships, that we may have Letters direct, charging the Persons who have caused this Charge against us to compeer personally, and to bring and produce the said Letters of *Horning*, with the Execution and Indorsations thereof before your Lordships at a certain day, to be seen and considered of, and in the mean time to suspend them, and your Lordship's Answer We humbly pray.

To which this short Answer was given by the Bishop of *Ross*; letting the Petitioners know, That whereas they pretend ignorance of what is contained in the Book, it appears by their many Objections and Exceptions in all parts of it almost, that they are too well versed in it, but have abused it pitifully; the Bishop asserting, that not the General Assembly, (which consists of a Multitude) but the Bishops have the Authority to govern the Church, and are the representative Church of the Kingdom. That they will never be able (do what they can) to prove what is contained in the Service-Book to be either Superstitious or Idolatrous, but that it is one of the most Orthodox and perfect Liturgies in the Christian Church.

An. 1637.

Words prescribed at the delivery of the Sacrament according to the English Liturgy.

But part of the words at delivery of the Sacrament, omitted in the Scotch Liturgy.

NOW that which startled the Scots most, as to the Service-Book in Point of Popery, was concerning the words prescribed therein to be used at the receiving of the Sacrament in the very delivery of the Bread and Wine after Consecration, wherein there was this Alteration made by way of an *Index Expurgatorius*, (as the Scots termed it;) for the ancient English form stood thus in the Liturgy, viz. *The Body of our Lord Jesus Christ which was given for thee, preserve thy Body and Soul unto Everlasting Life. And take and eat this in Remembrance that Christ died for thee, and feed on him in thy Heart by Faith with Thanksgiving.*

The Blood of our Lord Jesus Christ which was shed for thee, preserve thy Body and Soul unto Everlasting Life. And drink this in Remembrance that Christ's Blood was shed for thee, and be thankful. But the latter words, viz. *And take and eat this in Remembrance that Christ died for thee, and feed on him in thy Heart by Faith with Thanksgiving*, in the one; *And drink this in Remembrance that Christ's Blood was shed for thee, and be thankful*, in the other, were left out; and the Party Receiving is only to say *Amen*. And accordingly the said latter Passages were omitted in the Printed Service-Book; which remarkable Alteration gave the Scots occasion of Jealousies, that it was done to conform to the very Roman Missal, and order of the Mass, as followeth.

Viz.

The Body of our Lord Jesus Christ, which was given for thee, preserve thy Body and Soul unto Everlasting Life; to which the Party shall say Amen.

The like to the Blood of our Lord Jesus Christ which was shed for thee, preserve, &c. to Life Eternal, Amen.

The Roman Missal, viz.

Corpus Domini nostri Jesu Christi custodiat Animam meam in Vitam Aeternam, Amen.

Sanguis Domini nostri Jesu Christi custodiat Animam meam in Vitam Aeternam, Amen.

Concerning Transubstantiation.

Hence the Scots apprehended it was a Design to introduce a *Transubstantiation* of the Bread and Wine into Christ's very Body and Blood, and an External Receiving of them with the Mouth, to make a compleat Sacrifice of the Mass, which these Expunged Clauses do expressly contradict; and takes away all opinion of any *Transubstantiation*, or Corporal Eating of Christ's Body, or drinking his Blood in the Sacrament.

The Arch-bishop of Canterbury writes a Letter to the Arch-bishop of St. Andrews, dated September 4. 1637. and so much of it as concerneth the late Tumults about the Service-Book in Scotland, followeth in these words.

Touching

13 Caroli.

The Arch-bishop of Canterburies Letter to the Arch-bishop of St. Andrews.

Touching the Tumult, I can say no more than I have already, and for the casting of any fault upon your Grace, and the rest of your Brethren, as if the thing were done precipitately, I think few Men will believe that; but that which is thought here is, that though you took advice among your selves, yet the whole Body of the Council was not acquainted with all your determinations, nor their advice taken, nor their Power called in for assistance, till it was too late; and that after the thing was done, you consulted apart, and sent up to the King without calling a Council, or joyning the Lay-Lords with you; whereas all was little enough in a Business of this nature, and so much opposed by some Factionous Men gathered (it seems) purposely together at Edinburgh, to disturb this Business: And indeed, my Lord, you could not in this particular have engaged the Lay-Lords too far; and if any Lord here speak too much when he thought the Service might have been received throughout all that Kingdom in one day, I hope your Grace falls as much too short on the other side; for I hope it will be settled in far less time than seven years. And whereas you write, that the fault is most in your Ministers, I easily believe that to be true, but then they should have been delt withal before-hand, and made plyable, especially in Edinburgh, or else some others appointed in the room of such as disliked. And since your Grace is of opinion, that a sharper course would do more good, and that you would have taken such with Mr. Ramsey, (if my Lords had not altered your opinion) His Majesty leaves you to take that course both with him and others as you shall find fittest for His Service, and the Churches. And for the Postscript, I am sorry as well as you for Mr. Rollock, and that is all I have to say of him; so desiring God to bless you through these Troubles, I leave you, &c.

September 4. 1637.

W. Cant.

On September 11. the Arch-bishop of Canterbury writ another Letter to the Earl of Traquair, wherein he takes notice, that the Puritan Party receives encouragement by the disturbance given to the reading of the Service-Book.

Arch-Bishop of Canterburies Letter to the Lord Traquair,
September 11. 1637.

My very good Lord,

I Have received your Letter of August 20. and am very glad to read in them, that mine came safe to you, by your Servant: For the Business, I had some little Inkling given me by my Lord Strivling about the stay of the Service-Book; but till I read your Letter, I did not believe it possible that way should be given to an Interdiction, especially considering how strongly you had ever opposed it, and withal how weak and uncounsellable (at least in my Judgment) the thing it self was, for they could not but foresee, that that course would add a great deal of heartning and encouragement to the Puritan Party: And therefore 'tis no wonder, such Lords, and others as were ill-affected to the Liturgy,

were

An. 1636. *were easie in giving way to that Council, which they could not but see would advance their own ends; but that my Lord of Ross should give the advice, and my Lord of St. Andrews follow it with such stiffness, may be a wonder to any man that knows them and the Business.*

My Lord St. Andrews hath lately written to me, that my Lord of Ross was gone into his Diocess; but for my part, I did not think that all the rest would have gone away, and left the Business; for they cannot but think, that the adverse part would make use of the present time to put further difficulties upon the Work; and therefore they should have been as careful to uphold it, my Lord of Ross especially, whose Hand hath been as much in it as the most. But since they are gone, His Majesty takes it extreamly well from my Lords of Edinburgh, Galloway, and Dunblane, that they stay and attend the Business as well as they can; but he hath expresly commanded me to give your Lordship thanks for staying with them, and keeping them so well in heart; for as the Business is now foyled, if you do not stick close to Gods and the Kings Service in it, it will certainly suffer more than it is fit it should.

His Majesty likewise takes it exceeding well from your Lordship, that you have dealt with the City of Edinburgh for maintenance for such as shall take upon them to read the Liturgy; and takes it well from the City it self, from whom I have received a very fair discreet Letter, which I have shewed His Majesty, and writ the City an Answer by this Return, and given them His Majesties thanks, which indeed He commanded me to do very heartily: And in truth they deserve it, especially as the Times stand.

As for the Ministers of Edinburgh, I know the refusal of Mr. Ramsey and Mr. Rollock, but that any other of them stuck at it, or that any Bishops seem not to be forward, is more than I heard till now; but for that of Mr. Ramsey, or any of the Bishops that would have somewhat amended, if that should be yielded unto now (unless they should be able to give such reason against it, as I know they cannot) it would mightily dishonour the King, who to my knowledge hath carefully look'd over, and approved every word in this Liturgy; and I doubt it would utterly destroy the Service it self, for while one man out of a humour dislikes one thing, and another another thing, by that time every mans dislike were satisfied, I doubt there would be but little left to serve God with: Besides, it is not improbable, but that some men would be as earnest to have the self-same thing kept in, which others would have so fain thrust out, what e're it be; and that may make it grow up into a formal contestation upon some particulars, and quite distemper the Service. But whereas you write, That some Bishops speak plainly, that if their opinions had been craved, they would have advised the amending of some thing: Truly for that, and in that way, I would with all my heart they had seen it; and why my Lord of St. Andrews, and they which were trusted by the King, did not discreetly acquaint every Bishop with it, (considering that every Bishop must be used in their several Diocesses) I know no reason; and sure I am there was no prohibition upon them. And since I hear from others, that some exception is taken, because there is more in that Liturgy in some few Particulars, than is in the Liturgy in England, why did they not then admit the Liturgy of England without more ado? But by their refusal of that, and the dislike of this, 'tis more than manifest they would have neither, perhaps

perhaps, yea, none at all, were they left to themselves. But, my Lord to your self only, and in your ear, a great favour you should do me, if you will get my Lord of Galloway to set me down in brief Propositions, without any further Discourse, all the exceptions that are taken against the Liturgy by Ramsey, Rollock, or any other; and I could be content to know who the Bishops are, who would have amended something, had they been advised with, and what that is which they would have so amended, &c.

13 Caroli.

September 11.

Will. Cant.

1637.

On the 25th, and 26th, there hapned some further disturbances by the confluence of the People, as the Lords of the Secret-Council were sitting two days together, with which the Magistrates of *Edenburgh* seemed to be much dissatisfied; and having at last quieted the People, thought fit to write this ensuing Letter to the Arch-Bishop of *Canterbury*, dated the 26th of September 1637.

Most Reverend Father in God, and our very Good Lord,

WE do receive your Grace's kind Letter, and from our hearts we do render your Grace most hearty thanks, and as we have hitherto found your special favour in this matter, concerning the lately imprinted Service-Book, where-anent we did write to your Grace formerly, shewing our dutiful and obedient resolution, not only in our selves, but in the greatest and best part of our Inhabitants, of whom from time to time, as we have had most confident assurance, so now we must again become new Suitors at your Grace's hands, to receive from us a true information of the difference of the present time, and of that when we did presume to write the occasions thereof: which is, That since our last there hath been such an innumerable confluence of people from all the corners of this Kingdom, both of Clergy and Laity, and of all degrees, by occasion of two Council-days, and such things suggested to our poor ignorant people, that they have razed out what we by great and continual pains had imprinted in their minds, and diverted them altogether from their former resolutions; so that now when we were urged by our selves alone, we could not adventure, but were forced to supplicate the Lords of Council to continue us in the state they had done the rest of the Kingdom, having hitherto forbore, either to combine with them, or to countenance them in their Supplications; yet we will not forbear to do our Master's Service to our power, but shall study to imprint in their minds, what hath been taken away: in the interim we will humbly beg your Grace's Favour and Intercession with His Majesty, that we may be kept still in His Favour, which we do esteem our greatest earthly felicity, and that what course shall be taken with the rest of this Kingdom in that matter, who have presented many supplications, and with whom we have in no ways combined, that the same and no other may be taken with us, wherein we are confident to prevail, as much as any other within the Kingdom; and in all things shall endeavour nothing more, than that we may approve our selves most dutiful

A Letter from the Magistrates of *Edenburgh*, to the Arch-Bishop of *Canterbury*.

An. 1637. *tiful and obedient Subjects. Thus relying upon your Grace's Favour, as our most assured refuge, we kiss your Grace's hands, and rest*

Edenburgh this 26th
of Septemb. 1637.

Your Grace's most Affectionate and Hum-
ble Servants, the Bayliffs of *Edenburgh*,

Ch. Hamilton.
James Rucheid.
J. Cochrane.
J. Smith. } Bayliffs.

All things at
present seemed
to be quiet.

A great Con-
flux of People
at *Edenburgh*.

Three Procla-
mations pub-
lished.

ALL Business now for a time seemed to be hushed and calmed, by reason of the long Vacation, which in that Kingdom be-
ginneth always on *Lammas* day *August* the first, and the Harvest
which drew all sorts of People from *Edenburgh*, except the Citi-
zens; so that little or nothing was done between the last of *July*
and the first of *October*, save that some Ministers, as is before men-
tioned, Petitioned the Lords of the Council for suspending the
Letters whereby they were charged to receive the Service-Book.

But as soon as Harvest was done, the conflux of all sorts of the
King's Subjects, Nobility, Gentry, Ministers and Burgeses, from
all parts of that Kingdom, came to be so great at *Edenburgh*, and
after such a tumultuous manner, as that a present insurrection was
justly feared, which forced the Council (then assembled at *Eden-
burgh* upon the day before appointed by them, viz. the 17th of
October) to make three Proclamations, the first to give notice, that
on that day nothing should be treated of at the Council-Table con-
cerning Church-business, until the Lords might see the times and
meeting of His Majesties Subjects more quiet and peaceable; and
therefore commanded all who were come thither about any such
business, peaceably to repair to their own homes within twenty four
hours, under the pains expressed in the said Proclamation. A se-
cond was for removing the Session (which in *England* is called the
Term) from *Edenburgh* to *Linlithgow* for fear of present danger,
if this great concourse of People should not some way be diverted
and divided, especially considering that those of *Edenburgh* were
now apparently perverted and become very ill-affected to the King
and Council. A third Proclamation for bringing in and burning a
certain seditious Book newly dispersed amongst our Subjects there,
tending to Sedition and the Disgrace of our Ecclesiastical Govern-
ment here in *England*. All which Proclamations bore date the 17th
of *October* 1637, and were as followeth.

The

The first Proclamation dated October 17. 1637.

Inasmuch as it hath pleased the King's Majesty, upon divers good Respects and Considerations, to give Warrant and Direction to the Lords of His Majesties Privy-Council, for dissolving the meeting of the Council this day, so far as concerneth matters of the Church. And that every one that hath come to attend this business, repair to their own dwellings, except such persons as shall make known to the said Lords of Council just cause of stay, for their particular affairs: Therefore the said Lords according to His Majesties Special Warrant and Direction sent unto them, have dissolved, and by the tenour hereof, do dissolve the Meeting of the Council this day, in so far as concerns the business above written; and ordains a Hacer of Council to pass to the Mercate Cross of Edinburgh, and to make publication hereof; and to command every one that hath come hither to attend this business, to repair home to their own Dwellings within twenty four hours after the Publication hereof, except such persons as shall make known to the said Lords, just cause of their further particular affairs in manner aforesaid, under pain of Rebellion, and of putting them to the Horn, with certification to them, that if they fail they shall be denounced Rebels, and put to the Horn, and all their moveable Goods escheat to His Majesties use.

The Concourse of People being great at Edinburgh are to depart the City, fearing more Tumults, &c.

The second Proclamation dated October 17. 1637.

Inasmuch as it hath pleased the King's Majesty, upon divers great and good Considerations known to His Majesty, to remove his Council and Session from the City of Edinburgh to the Burgh of Dundee: And whereas it is inconvenient at this time to remove it so far, His Majesty is graciously pleased, that this next Session shall be holden at the Burgh of Linlithgow, and the next after the Ordinary vacants at the Burgh of Dundee, and there to remain, during His Majesties Pleasure: And therefore the said Lords, according to His Majesties Special direction, ordains Hacers or Officers of Arms to pass and make publication hereof to all His Majesties good Subjects by open Proclamation at all places needful, whereby they can pretend no ignorance thereof, but may prepare themselves to attend at Linlithgow and Dundee accordingly.

To remove the Session to Linlithgow, after to Dundee.

An. 1637.

A third Proclamation dated *October 17. 1637.*

A Book Printed against English Popish Ceremonies, obtruded upon the Kirk of Scotland, called in.

INASMUCH as the King's Majesty is credibly informed, that there is a certain Book entituled, A Dispute against the English Popish Ceremonies, obtruded upon the Kirk of Scotland; and hath been sent abroad and dispersed in this Kingdom, purposely to stir the hearts and affections of the Subjects from their due Obedience and Allegiance: And therefore it hath pleased His Majesty to give Order and Direction to his Council, that diligent inquiry and search be made for the said Book. And for this effect the said Lords ordains Letters to be directed to make intimation and publication to all His Majesties Subjects, that such of them as have any of the said Books, bring in the same to the Lords of His Majesties Privy-Council, betwixt the date of his Proclamation and the day of and the said Books being brought in, that the same be publickly burnt, certifying all His Majesties Subjects, if any of those Books shall be found, or known to have been with any of them, after the time aforesaid, that they shall incur the like Censure and Punishment, as the Author may be found to deserve, for any thing contained in that Book.

A new Tumult at *Edenburgh.*

UPON the publishing of these three Proclamations, and the intended removal of the Session or Term from *Edenburgh* to *Linlithgow*, a new Tumult fell out in *Edenburgh* upon *October 18.* against the Earl of *Traquair* and some of the Bishops, whom the People in their fury went about to have killed; (as it was apprehended) and the Bishop of *Galloway* as he was peaceably passing along the street towards the Council-house, suddenly an enraged multitude surrounded him, and followed him with fearful cursing and exclamations close to the Council-door, where he was again encountred a-fresh with another multitude, who watched and lay in wait for his coming thither, and whose fury exceeded words; for in all probability the Bishop had been pulled to pieces by them, if by Divine Providence he had not been defended by *Francis Steward*, who with much ado, got the Bishop within the Doors of the Council-house, where the Lord Chief Justice staid for him: but when he was there, that place of Highest Reverence within that Kingdom, was no Sanctuary for him; for they continued demanding his person, and threatening him with death. The report hereof, and the Danger of their Lord's Life was brought by some of the Bishop's Servants presently to the Earl of *Traquair*, Lord Treasurer, and the Earl of *Wigton*, one of the Lords of the Council, who were then at a Lodging not far from thence; they came presently with their followers to the relief of the Bishop, but very hardly (for the crowd of the Mutiners) could approach the Council-house where he was; at last when with much ado they got entrance, they found themselves in no better case than the Bishop was, for the peoples fury meeting with no proportionable resistance, increased the more; the Lords thus beset in the Council-house, sent privately to the Lord Provost,

Provost, Bayliffs, and Council of *Edenburgh*, (who were then assembled in their own Council-house) requiring them to come to their rescue, and to take some present order for their safety: they by one *Sir Thomas Thompson*, who indeed was an eye witness of the truth of it, returned this Answer, that they were in the same, if not a worse case themselves, if the Lords without did not presently pacifie the intraged multitude; that the whole streets were pestered with disorderly people; that their Council-house was beset without and thronged within, with their own threatening Citizens, who had vowed to kill all within the House, unless they did presently subscribe to a Paper presented to them, which for fear of their lives they were forced to do: which Paper contained these three particulars.

First, That they should joyn with them in opposition to the Service-Book, and in petitioning us for that purpose.

Secondly, That by their Authority they should presently restore unto their Places and Pulpits, *Mr. Ramsay* and *Rollock*, their two silenced Ministers.

Thirdly, That they should restore unto his place one *Henderson*, a silenced Reader. No better answer being returned, the Lord *Treasurer* and the Earl of *Wigton* with their Followers resolved to go up to the Town Council-house, and to use the uttermost of their Authority, or (if that found no respect) their best perswasions for settling the present Sedition: when they came thither, they found the Magistrates very much discomposed, and greatly perplexed; as much doubting whether ever they should escape from the place with their lives, yet they presently entred into consultation with them, about what was fittest to be done in such an exigent; and finding now that the publick divulging of that Paper, which the Magistrates and Council of the City had subscribed, and that the open proclamation of it throughout all their turbulent Troops, and at the Cross, had a little asswaged their furious rage, the Lords began to advise with the Magistrates what was best to be done for the safety of the Bishop of *Galloway*, whom they had left besieged in the Council-house; it was thought fit by all, that the Lords should return to our Council-house, and contain themselves therein till the Magistrates might try what they could do for calming the Commotion in the Streets: but no sooner had the Lords presented themselves to the Streets, but they were received with such violence, as they were forced to retire, untill such time as two of the Bayliffs, with their Sergeants and Officers, and such others as they got to attend them, accompanying the Lords, and repeating to the Multitude what had been yielded to, in the Paper exhibited to them, a little way was made at first; but presently when they entred upon the Great-Street, the Barbarous Multitude run most intragedly upon them; their out-crys were horrible and confused, but were (as much as in such a confusion could be distinguished) *God defend all those who will defend God's Cause, and God confound the Service-Book, and all the maintainers of it.* The Lords being in present and imminent danger, assured the People that they would represent their grievances to His Majesty; for when they perceived that the People refused to obey any Commandment which was laid upon them in the King's Name, and that they

flighted

An. 1637.

flighted their requiring of them to retire unto their own Houses, and to behave themselves as quiet and good Subjects, under pain of His Majesties highest displeasure, they were glad then to take themselves to entreaties and plausible perswasions, but all in vain; for the People still encreased their fury, and that to such a height, as that the Lord *Treasurer* was thrown down, his Hat, Cloak, and White-Staff pulled from him, so that if by the strength of some about him he had not been pulled up presently again upon his Feet, he had undoubtedly been trod to death; and in that posture without Hat or Cloak, like a notorious Malefactor, was he carried by the Croud to the Council-house-door, where the Bishop of *Galloway* and others of the Council were imprisoned in great fear, expecting the Lords return for their relief.

Not long after the Provost and Bailiffs came thither to them, told them they had used their uttermost power and perswasions with the best, ablest, and of the prime esteem of all their Citizens, for the appeasing of the present Tumult, and securing their Lordships persons, but could find no concurrence nor obedience. Whereupon the Lords resolved to send for some of the Nobility and Gentry, and others who were now frequently assembled for assisting the Petition against the Service-Book, to trie what help they would or could contribute for quieting the enraged People, and what assistance they might expect from them in freeing them from the present danger. They being sent for, came to the Lords, and declared unto them how much they were unsatisfied with the present mutiny, offered their Persons and Powers for securing them from all violence, which the Lords in the Council-house accepting of, with much ado (being guarded by them whom the People would not offend) the Lord *Treasurer* got to the Palace at *Haly-Rood-House*, and the Bishop of *Galloway* to his Lodging: but the Lord *Provost* was again set upon, as he was entring his own House, and was so pressed upon by the Multitude that they crouded with him into his own Yard, railing upon him and throwing Stones at his Windows, until some of his Servants discharging a Piece, which had nothing but Powder in it, they retired for fear.

This Morning Storm being a little blown over, the Council in the Afternoon met at the Palace at *Haly-Rood-House*, and commanded a Proclamation presently to be made at the Cross of *Edinburgh*, the tenour whereof here followeth.

At *Haly-Rood-House* the 18th of October 1637.

A Proclamation
requiring
the Multitude
to keep the
Peace

FOrasmuch as a number of the Lords of His Majesties Privy-Council, as likewise the Town Council of *Edinburgh*, being this day convened in their several Judicatories, for His Majesties special affairs and service, they were most rudely interrupted in the Course of their proceedings, by a tumultuous gathering of the promiscuous and vulgar Multitude, by whom His Majesties Council and Servants in an open way was shamefully environed; which being a matter very disgraceful to His Majesties Authority and Lawful Government, and which in the consequence thereof may pro-duce

duce dangerous effects, if the like be not prevented in the time to come: therefore the Lords of the Secret Council, according to the duty of their place and charge incumbent to them, ordains a Master of Council to pass to the Mercate-Cross of Edinburgh, and there by open Proclamation to discharge all publick Gatherings and Convocations of His Majesties Subjects, within the City of Edinburgh, and upon the Streets thereof; as likewise all private meetings tending to faction and tumult; and in His Majesties Name and Authority, to command all His Majesties Lieges and Inhabitants within the said City to contain themselves in peace and quietness: and for that effect to keep their Houses, except when their lawful business doth otherwise call them, under all highest pain and charge, that by rigour of Law can be inflicted upon the contrabeneers of the premises in manner above expressed.

13 Caroli.

Notwithstanding this Proclamation, the next Council-day the People of *Edinburgh* sent their Commissioners publickly to the Council-Table, to require that their Ministers and Reader might be restored to them, and that they might have assurance for the performance of what was lately promised to them by their Magistrates, meaning those three things before mentioned, which they were enforced to agree unto by the former Tumult.

After these Tumults there were presented to the Lord Chancellor and Council two Petitions; one in name of all the Men, Women, Children and Servants of *Edinburgh*, only against the Service-Book: And another in the name of the Noblemen, Gentry, Ministers and Burgeses against the Service-Book, and Book of Canons: that to the Lord Chancellor was as followeth.

My Lord Chancellor.

Unto your Lordship humbly shews,

WE Men, Women, and Children, and Servants, Indwellers within the Burgh of *Edinburgh*; That whereas we being urged with this Book of Service, and having considered the same, we find many things therein so far different from that form of Gods publick worship, universally received and professed within this Kingdom; and we Burgeses being at our entry and admission deeply sworn for the maintenance thereof, that now makes our hearts to tremble, and our weak Consciences will not suffer us to imbrace and practice this urged service: We have this long time past winked at some former alterations, being put in hope that no further Innovations should follow; but now we being oppressed with our just fears, to see our selves deprived of that liberty in serving God, which hath ever been approved by Church and Kingdom, in place whereof we are now like to be constrained to imbrace another, which hath neither been agitated nor received either by General Assembly or Parliament: in such extremity we are most humbly to supplicate your Lorchip, to consider our present estate, that this business is a matter of so

The Women and Childrens Petition to the Council, against the Service-book.

An. 1637.



great weight and consequence, as should not appear to be a need-
 less noise of simple Women; but it is the absolute desire of our
 hearts for preservation of True Religion amongst us, which is
 dearer to us than either Estate or Life: and therefore we do
 crave, that as the rest of the Kingdom, so we may have a time to
 advise, and that your Lordships may find out some way, where-
 by we may be delivered from the fear of this and all other In-
 novations of this kind, and have the happiness to enjoy the True
 Religion, as it hath been by the great mercy of God reformed in
 this Land, and authorised by His Majesty, who may long and
 prosperously reign over us. And your Lordships answer.

The *Petition* to the Council follows of the Noble-men, Gen-
 try, Ministers, Burgeses, against the Service-Book, and Book of
 Canons.

My Lords of Secret Council.

Unto your Lordships humbly shew,

October 1637.
 A Petition of
 the Noble-
 men, &c.
 against the
 Service-Book.

WE Noble-men, Barons, Ministers, Burgeses, and Com-
 mons; That whereas we were in humble and quiet man-
 ner, attending a gracious Answer of our former supplications
 against the Service-Book imposed upon us, and ready to shew
 the great inconveniences, which upon the introduction thereof
 must ensue; we are without any known desert, far beyond our
 expectation, surprized and charged by publick Proclamation to de-
 part out of the Town within twenty four hours thereafter under
 pain of Rebellion; by which peremptory and unusual charge,
 our fears of a more severe and strict course of proceeding are aug-
 mented, and course of our supplication interrupted. Wherefore
 we are constrained, out of the deep grief of our hearts, humbly
 to remonstrate; That whereas the Arch-Bishops and Bishops of
 this Realm, being intrusted by His Majesty with the Govern-
 ment of the affairs of the Church of *Scotland*, have drawn up,
 and set forth, and caused to be drawn up and set forth and in-
 joined upon the Subjects two Books; in the one whereof,
 called the Book of *Common-Prayer*, not only are sown the seeds of
 divers Superstitions, Idolatry and False-doctrine, contrary to the
 true Religion established within this Realm by divers Acts of
 Parliament; but also the Service-Book of *England* is abused,
 especially in the matter of Communion, by Additions, Substra-
 ctions, interchanging of Words and Sentences, falsifying of Ti-
 tles, and misplacing of Collects, to the disadvantage of Reforma-
 tion, as the *Romish* Mass is, in the more substantial points, made
 up therein, as we offer to instruct in time and place conveni-
 ent, quite contrary unto, and for reversing the gracious inten-
 tions of the Blessed Reformers of Religion in *England*. In the
 other Book, called *Canons and Constitutions for the Government of*
the Church of Scotland, they have ordained, that whosoever shall
 affirm that the form of Worship inserted in the Book of Com-
 mon Prayer and administration of the Sacraments, (whereof
 heretofore

heretofore and now we most justly complain) doth contain any thing repugnant to the Scriptures, or are Corrupt, Superstitious or unlawful in the Service and Worship of God, shall be excommunicated and not be restored, but by the Bishop of the place, or Arch-Bishop of the Province, after his repentance, and publick revocation of this his wicked error; besides a hundred *Canons* more, many of them tending to the reviving and fostering of abolished Superstitions, and Errors, and to the overthrow of our Church discipline, established by Acts of Parliament, opening a Door for what further Invention of Religion they please to make, and stopping the way, which Law before did allow unto us, for suppressing of Error and Superstition, and ordaining that where in any of the *Canons* there is no penalty expressly set down, the punishment shall be arbitrary, as the Bishop shall think fittest. All which *Canons* were never seen or allowed in any General Assembly, but are imposed contrary to order of Law appointed in this Realm for establishing Constitutions Ecclesiastical; unto which two Books, the foresaid Prelates have under trust procured His Majesties Royal-hand and Letters Patents, for pressing the same upon His Loyal Subjects, and are the contrivers and devisers of the same, as doth clearly appear by the Frontispiece of the Book of *Common Prayer*, and have begun to urge the acceptance of the same, not only by Injunctions given in Provincial Assemblies, but also by open Proclamation and charge of *Horning*, whereby we are driven in such straits, as we must either by process of Excommunication and Horning, suffer the ruine of our Estates and Fortunes, or else by breach of our Covenant with God, and forsaking the way of True Religion, fall under the wrath of God, which unto us is more grievous than death. Wherefore we being perswaded, that these their proceedings are contrary to our Gracious Sovereign his pious intentions, who out of his Zeal and Princely Care of the preservation of True Religion established in this his ancient Kingdom, hath ratified the same in His Highness Parliament 1633. And so His Majesty to be highly wronged by the said Prelates, who have so far abused their Credit with so good a King, as thus to ensnare His Subjects, rend our Church, undermine Religion in Doctrine, Sacraments, and Discipline, move discontent between the King and His Subjects, and discord between Subject and Subject, contrary to several Acts of Parliament. We out of bound duty to God, our King, and Native Country complain of the foresaid Prelates, humbly craving, that this matter may be put to tryal, and these our Parties taken order with according to the Laws of the Realm: and they be not suffered to sit any more as Judges, until the Cause be tried and decided according to justice. And if this shall seem to be to you a matter of higher Importance than you will condescend unto, before His Majesty be acquainted therewith, then we humbly supplicate, That this our grievance and complaint may be fully represented to His Majesty, that from the influence of his gracious Sovereignty and Justice, these wrongs may be redressed, and we have the happiness to enjoy the Religion, as it hath been reformed in this Land.

These

An. 1637.

These Petitions were sent up to the King by the Secret-Council: but the King finding no disavowing of the late Tumults, resolved to delay the Answering of their Petitions; but in the mean time commanded His Privy Council to signifie to His Subjects His averfeness from Popery, and detestation of Superstition: and so accordingly the Council caused the ensuing Proclamation to be made at *Linlithgow*, dated *December the 7th, 1637*, being as followeth.

At *Linlithgow* *December 7. 1637.*

The Kings Declaration against these Barbarous Tumults, and that His Majesty abhorreth all Superstition of Popery.

FOrasmuch as the King's Majesty having seen the Petition presented to the Lords of His Privy Council, and by them sent up to His Majesty concerning the Service-Book, determined to have taken the same into Consideration, and to have given His Gracious Answer there-ament with all convenience; like as His Majesty by His Letter to His Council, of the date of the 9th of October last, did signifie His Gracious Resolution to the effect aforesaid: but since that time His Majesty finding (far contrary to his expectation) that such disorderly, tumultuous and barbarous Insolencies have been committed within the City of *Edinburgh* upon the 18th day of October last, to the great contempt of His Majesties Royal Authority, by abusing His Majesties Councillors and Officers of State, with others bearing Charge and Authority under His Majesty within the said City; His Majesty in a just resentment of that foul indignity (wherein His Majesties Honour did so much suffer) hath been moved to delay the signification of His Majesties gracious intentions, in giving to His Subjects such satisfactory Answers to their Petitions, as in equity might be expected from so Just and Religious a Prince: but yet His Majesty being unwilling that his Loyal and Faithful Subjects should be possessed with groundless and unnecessary doubts and fears, His Majesty is pleased out of His Goodness to declare, like as by these presents he declareth, That as he abhorreth all superstition of Popery, so he will be most careful, that nothing be allowed within His Majesties Dominions, but that which shall tend to the advancement of True Religion, as it is presently professed within His most ancient Kingdom of *Scotland*, and that nothing is or was intended to be done therein, against the laudable Laws of this His Majesties Native Kingdom; and ordaineth publication to be made thereof in form as aforesaid.

April 1637.

Having given the Reader the trouble with an account of the *Scottish* Affairs, from the twenty third of *July* to the month of *December*, we shall now revert to *England*, and give an account of affairs there as we left them in order of time.

At this time it was endeavoured to block up the passage of those voluntary Exiles that were willing to go to another part of the World: where, as they said, they might not meet with such disturbance as they had here in *England* from the Ecclesiastical Courts. Here followeth the Proclamation prohibiting their Exportation.

The

The King being informed, that great numbers of his Subjects were yearly transported into those parts of America, which have been granted by Patent to several Persons, and there settle themselves, some of them with their Families, and whole Estates, amongst whom were many idle and refractory humors, whose only or principal end is to live without the reach of Authority; did command his Officers, and Ministers of the Ports, not to suffer any Persons, being Subsidy-Men, or of their value, to pass to any of those Plantations without a Licence from his Majesties Commissioners for Plantations first obtained; nor any under the Degree of Subsidy-men, without a Certificate from two Justices of Peace where they lived, that they have taken the Oaths of Allegiance and Supremacy, and a Testimony from the Minister of the Parish of their Conformity to the Orders and Discipline of the Church of England.

12 Caroli

April 30.
A Proclamation against the disorderly Transporting His Majesties Subjects to the Plantations within the parts of America.

THe Privy-Council made another Order for Reasons importing the State best known to themselves, 'That the Lord Treasurer of *England* shall take speedy and effectual course for the stay of eight Ships now in the River of *Thames*, prepared to go for *New-England*, and shall likewise give Order for the putting on Land all the Passengers and Provisions therein intended for that Voyage. And some days after His Majesty, and the Board, taking into consideration the frequent resort into *New-England* of divers Persons ill-affected to the Religion established in the Church of *England*, and to the good and peaceable Government of this State, howbeit, upon the humble Petition of the Merchants, Passengers, and owners of the Ships now bound for *New-England*, and upon the Reasons by them represented to the Board, His Majesty was then graciously pleased to free them from the late Restraint to proceed in their intended Voyage. Nevertheless His Majesty knowing the Factious disposition of a great part of the People of that Plantation, and how unfit and unworthy they are of any support or countenance from hence in respect of the great disorders and want of Government among them, whereof sundry and great Complaints have been presented to the Board, and made appear to be true, by those that being well-affected both for Religion and Government, have suffered much loss in their Estates by the unruly Factious Party, did think fit and Order, That Mr. Attorney-General shall forthwith draw up a *Proclamation* expressing His Majesties Royal Pleasure to prohibit all Merchants, Masters, and Owners of Ships, henceforward to set forth any Ship or Ships with Passengers for *New-England*, till they have first obtained special Licence on that behalf, from such of the Lords of His Majesties most Honourable Privy-Council, as are appointed for the Businesses of Forreign Plantations by special Commission.

May 1. 1638.
Order of the Council.

According to this Order of the Council a Proclamation issued forth.

And upon the same Grounds and Reasons the Passage to the *Summer-Islands* was barred by this Order of the Council.

' Whereas

An. 1636.

A Warrant to the Lord Admiral to stop unconformable Ministers from going beyond Sea.

Whereas it is observed, That such *Ministers who are unconformable* to the Discipline and Ceremonies of the Church, have and do frequently *transport themselves* to the *Summer-Islands*, and other His Majesties Plantations abroad, where they take liberty to nourish and preserve their factious and *Schismatical humors*, to the seducing and abusing of His Majesties Subjects, and the hindrance of that good Conformity and Unity in the Church, which His Majesty is careful and desirous to establish throughout His Dominions: We are therefore in His Majesties Name, and by His express Command, to pray and require your Lordship, to take present and strict order that no *Clergy-man* be henceforth suffered to go over into the *Summer-Islands*, but such only as shall have approbation on that behalf from Our very good Lords, the Lord Arch-bishop of *Canterbury* his Grace, and the Lord Bishop of *London*. And for all such of them as are already gone thither without such approbation, that you cause them forthwith to be remanded back hither.

Non-conformists sell their Estates.

The severe Censures in *Star-Chamber*, and the greatness of the Fines, and the rigorous Proceedings to impose Ceremonies, the suspending and silencing Multitudes of Ministers, for not reading in the Church the Book for Sports to be exercised on the Lords day, caused many of the Nation, both Ministers and others, to sell their Estates, and to set Sail for *New-England*, (a late Plantation in *America*) where they hold a Plantation by *Patent* from the King.

At this time there was a great discourse, that the Arch-Bishop of *Canterbury* his Chaplain had Licensed a Book containing Passages tending to Popery, which got so great ground and credit in the Report, as the State thought fit to purge themselves from owning any such Passages in the Book; and the Chaplain being well befriended, did acquit himself, as by the following Proclamation doth appear.

A Proclamation for calling in a Book intituled an Introduction to a devout Life; and that the same be publickly burnt.

May 14.

Whereas a Book, entitled *An Introduction to a Devout Life*, was lately printed by Nicholas Oakes of London, and many of them published and dispersed throughout the Realm, the Copy of which Book being brought to the Chaplain of the Lord Arch-bishop of *Canterbury* for Licence and Allowance, was by him, upon diligent perusal, in sundry places expunged and purged of divers Passages therein tending to Popery: Nevertheless the same Book, after it was so amended and allowed to be printed, was corrupted and falsified by the Translator and Stationer, who between them inserted again the same Popish and unsound Passages: And the Stationer is now apprehended, and the Translator sought for to be proceeded against according to Justice.

His

His Majesty, out of his Pious and constant care, to uphold and maintain the Religion professed in the Church of England in its purity, without error or corruption, doth therefore hereby declare his Royal Will and Pleasure to be, and doth straitly Charge and Command all Persons, of what degree, quality, or condition soever, to whose hands any of the said Books are, or shall come, that without delay they deliver or send them to the Bishop, or Chancellor of the Diocess, whom his Majesty requireth, to cause the same to be publicly burnt, as such of them as have been already seized on have been by his Majesties express Command: And to this his Majesties Royal Pleasure, he requireth all his Loving Subjects to yield all due conformity and obedience, as they will avoid the Censure of high Contempt.

13 Caroli.

At this time great care was taken about the repair of *St. Pauls*, and that nothing should stand in the way, which might hinder the beauty of the Church; which occasioned the pulling down of *St. Gregories Church*, to the great grief, trouble and charge of the Inhabitants: and *Cheapside* leading into *Pauls Churchyard*, being very glorious by the shew of Goldsmiths Shops; for the Honour of the City, as well as for the Church, these following Orders were made by the Council-Board, for removing of certain Shops, which did eclipse the glory of that Place.

Concerning
Goldsmiths
Shops in
Cheapside.

A Letter from the Lords of the Council to the Lord Major and Aldermen of *London*.

Whereas by Our Letters of the 15th of July, and last of January 1635. We did not only take notice of the present remissness and backwardness in the then Lord Major and Aldermen in seeing Our directions, by His Majesties express Command, forthwith put in execution, by bringing the Goldsmiths, living dispersed in the City to seat themselves either in *Cheapside* or *Lombard-street*, for which purpose We required that all other Tradesmen should be removed, and give place unto them; but if they should obstinately refuse, and remain refractory, then to take security of them to perform the same by a certain day, or in default of giving such security, to commit them to prison until they conform themselves. Notwithstanding all which His Majesty hath been informed, that there are yet a great number of Houses of other several Trades, that live both in *Cheapside* and *Lombard-street*, contrary to His Majesties Command, and Our said Directions, which neglect being both inexcusable, and very worthy of blame; We must let your Lordship, &c. know, that if speedy and effectual care be not taken by you, in seeing the same duly performed, His Majesty will not pass it by, without calling you to an account for it. And in the mean while We are by His Majesties Command to require and charge you, forthwith to cause all such Shops as are not Goldsmiths, and have been taken or opened either in *Cheapside* or *Lombard-street* since Our said Letters, to be presently shut up and not permitted to be opened, till further order from this

Shops in *Cheapside* and *Lombard-street* that are not Goldsmiths to be shut up.

An. 1637. *this Board; whereof your Lordship, &c. may not fail. And so, &c.*
Dated the 24th of May 1637. And Signed by,

Lord Arch-bishop of Canterbury,	Earl of Dorset,
Lord Keeper,	Lord Viscount Wimbeldon,
Lord Treasurer,	Lord Cottington,
Lord Privy-Seal,	Mr. Comptroller,
Lord Great Chamberlain,	Mr. Secretary Cooke.

And the 7th of July following this further Order was made, in the inner Star-Chamber.

Star-Chamber, July 7. 1637.

Shops in
 Cheapside and
 Lombard-street
 which are not
 Goldsmiths to
 be shut up.

Whereas their Lordships did this day take notice, that contrary to the Orders and Directions of their Lordships, divers Tradesmen which are not Goldsmiths, do contemptuously open again their Shops, both in Cheapside and Lombard-street, though they kept them for a while shut; their Lordships greatly blaming the Lord Mayor and Aldermen of the City of London, that they have so negligently performed His Majesties Commands, and the strict Directions of the Board, by Letters of the 24th of May last, and before, concerning the shutting up of all such Houses and Shops in Cheapside and Lombard-street as aforesaid, and that some of their Lordships have been Eye-witnesses (very lately) of their disobedience in this particular, did think fit and order, that if the Alderman or his Deputy shall not forthwith cause to be shut up every such Shop standing within his Ward in Cheapside and Lombard-street, which are not Goldsmiths; upon knowledge thereof the said Alderman, or his Deputy, shall be committed to Prison by Warrant from the Board.

And their Lordships did command, That this Order should be sent to the Lord Mayor, to the end, that notice might be given to whom it appertained.

Another Letter from the Lords of the Council, directed to the Lord Major of London; Dated the 12th of January 1637.

To put in execution former Directions touching shutting up of such Houses and Shops in Cheapside, &c. as are not Goldsmiths.

BT several Letters and Orders of this Board, and particularly that of the 24th of May, and the 7th of July last, we took notice how negligently the then Lord Mayor and Aldermen had performed His Majesties Commands, and the strict Directions of this Board, concerning the shutting up of all such Houses and Shops in Cheapside and Lombard-street as were not Goldsmiths; and did Order, That if the Aldermen of the said Wards or their Deputies, should not forthwith cause to be shut up every such Shop standing within their Wards in Cheapside and Lombard-street, which are not Goldsmiths; the said Alderman, or his Deputy neglecting so to do, should be committed to Prison

Prison by Warrant from the Board. Yet nevertheless, as we are informed, there are at the least 24 Houses and Shops that are not inhabited by Goldsmiths, but in some of them are one Grove, and one Widow Hill Stationers, one Dover a Milliner, and one Brown a Bandseller, one Sanders a Drugster, and one Medcalfe a Cook, one Edwards a Girdler, do, by connivance, still inhabit there, having some part of their Shops shut, and the rest open; which contempt of theirs, and disrespect, and neglect of the Aldermen, or their Deputies of those Wards, as we cannot but take notice of; so we must hereby pray and require your Lordship (without delay) to acquaint the said Aldermen and their Deputies therewith, and that if they do not presently put our former Directions in that particular in execution; we shall then give such further Order, as shall teach them to know, that the Commands of this Board ought not to be slighted. And hereof we shall expect to receive a particular account from your Lordship, who we hope will have a better care to see His Majesties Commands performed on this behalf, than your Predecessors have had. And so, &c. Dated the 12th of January 1637. Signed by

13 Caroli.

Lord Keeper,
Lord Treasurer,
Lord Privy-Seal,
Lord Marquess Hamilton,
Earl Marshal,
Lord Chamberlain,

Earl of Dorset,
Lord Cottington,
Lord Newburgh,
Mr. Secretary Cook,
Mr. Secretary Windebancke.

Panzani, the Popes Nuntio, his Letter to one of His Majesties principal Secretaries of State.

Most Excellent Sir, Patron most Honoured,

I Would have retained my self from writing to your most Illustrious Lordship, for fear of being to you some impediment, I knowing your many Occupations: but I have heard from many Persons, and in particular by Letters of Seignior Francisco, sometimes my Secretary, the Honourable Mention that other-whiles your most Illustrious Lordship is wont to make of my Person; and having also oftentimes understood from the most famous Seignior Cavaliere Hamilton, and from Father John the Benedictine, how much your most Illustrious Lordship straineth in favouring of me, I have been forced to commit this rude incivility, taking in hand my Pen to give you trouble. I assure your most famous Lordship, that I live so much obliged unto you, that I shall never be able to pretend to give satisfaction for one or the least particle of that which I owe; seeing that during my abode in London, most rare were those days in which I did not receive from your most Illustrious Lordship some Grace in the behalf and favour of the Poor Catholicks, &c.

I must also congratulate my self with your most famous Lordship, concerning the most Noble Manners and Behaviours of your Lordships Sons, the which, with their singular Modesty, and other most Laudable Vertues, have gained such an opinion amongst them that have known them in this Court, that I could never be able to express it, and the Lord Cardinal Barbarino, in particular, cannot satiate himself in praising them. It grieves

May 31. 1637.
A Letter from
the Popes
Nuntio.

An. 1637. grieves me not to have had the fortune to meet with them in this City, because willingly I would have attested my devotion towards your most famous Lordship; to the which, and to all your most Illustrious Family, I rest, desiring Eternal Felicity. In the mean while I humbly intreat you to favour me with some Commandment, and I kiss your Hands;

From Rome the 31st
of May 1637.

Your most Illustrious Lordships
most devout, and most obliged
Servant,

Gregory Panzani.

Trin^y-Term.
A Judge re-
fusing to take
bail upon a
Habeas Corpus.

Alexander
Fennings and
Samuel Dan-
vers their Case.

SIR R. B. being one of the Justices of the Court of *Kings-Bench*, and duly sworn, in *Trinity-Term* 1637, deferred to discharge or bail *Alexander Fennings*, Prisoner in the *Fleet*, brought by *Habeas Corpus* to the Bar of the said Court; the return of his Commitment being, that he was committed by two several Warrants from the Lords of the Council, dated the fifth of *November* 1636. the first being read only in Court expressing no cause, the other for not paying Messengers Fees; and until he should bring a Certificate, that he had paid his Assessment for Ship-money in the County of *Bucks*, they therefore remitted him. And in *Michaelmas-Term* after, the said *Fennings* being brought by another *Habeas Corpus* before him as aforesaid, and the same returned; yet he the said Sir R. B. refused to discharge or bail him, but remitted him. And in *Easter-Term*, after several Rules were given for His Majesties Counsel, to shew cause why the said *Fennings* should not be bailed; a fourth Rule was made for the said *Fennings*, to let His Majesties Attorney-General have notice thereof, and notice was given accordingly; and the said *Fennings* by another *Habeas Corpus* brought to the Bar in *Trinity-Term* after, and the same return; with this addition of a new Commitment of the fourth of *May*, suggesting he the said *Fennings* had used divers scandalous words in derogation and disparagement of His Majesties Government: he the said *Fennings*, after several Rules in the end of the said *Trinity-Term*, was again remitted to Prison; and he the said Sir R. B. did on the fifth of *June* last, defer to grant His Majesties Writs of *Habeas Corpus* for *William Pargiter*, and *Samuel Danvers* Esquires, Prisoners in the *Gatehouse*, and in the *Fleet*; and afterwards having granted the said Writ of *Habeas Corpus*, the said *Pargiter* and *Danvers* were on the eighth of *June* last brought to the Bar of the said Court, where the returns of their Commitments were several Warrants from the Lords of the Council, not expressing any cause; yet he the said Sir R. B. then sitting in the said Court, deferred to bail the said *Pargiter* and *Danvers*, and the eighteenth of *June* last made a Rule for a new Return to be received, which were returned the 25th of *June* last in hæc verba.

June 25.

‘Whereas His Majesty finding that His Subjects of *Scotland* have in a *Rebellious* and hostile manner assembled themselves together, and intend, not only to shake off their obedience unto His Majesty, but also as *Enemies*, to invade and infest
‘this

this His Kingdom of *England*, to the danger of His Royal Person, &c. 13 *Caroli.*

For prevention whereof, His Majesty hath, by the Advice of His Council-Board, given special commandment to all the Lord Lieutenants of the Counties of this Realm, appointed for their Rendezvous, in their severall and respective Counties, there to be conducted and drawn together into a Body for this Service. And whereas His Majesty, according to the Laws and Statutes of this Realm, and the constant custom of His Predecessors, Kings and Queens of this Realm, hath power for the defence of this Kingdom, and resisting the force of the Enemies thereof, to grant forth Commissions under His great Seal to such fit Persons as he shall make choice of, to array and arm the Subjects of this Kingdom, and to compel those who are of able Bodies, and of able Estates, to arm themselves; and such as should not be of able Bodies, but of ability in Estate, to assess them according to their Estates, to contribute towards the Charge of arraying others being able of Body, and not able in Estate to arm themselves; and such Persons as should be contrariant to commit to Prison, there to remain until the King should take further order therein.

And whereas the Earl of *Exeter*, by vertue of His Majesties Commission to him directed, for the arraying and arming of a certain number of Persons in the County of *Northampton*, hath assessed *William Pargiter*, being a Man unfit of Body for that Service, but being of Estate and Ability to contribute amongst others, to pay the Sum of Five Shillings towards the arraying and arming of others of able Bodies, and wanting ability to array and arm themselves.

And whereas We have received information from the said Earl, That the said *William Pargiter* hath not only, in a wilful and disobedient manner refused to pay the said Money assessed upon him towards so important a Service, to the disturbance and hindrance of the necessary defence of this Kingdom; but also by his ill example hath misled many others, and, as we have just cause to believe, hath practised to seduce others from that ready obedience which they owe, and would otherwise have yielded to His Majesties just command, for the publick defence of His Person and Kingdom, which we purpose with all convenient speed to enquire further and examine.

These are therefore to will and require you to take into your Custody the Persons of the said *William Pargiter* and *Samuel Danvers*, and them safely to keep Prisoners till further order from this Board, or until by due course of Law they shall be delivered. Yet he the said Sir *R. B.* being desired to bail the said *Pargiter* and *Danvers* remitted them, where they remained Prisoners till the ninth of *November* last, or thereabouts; although the said *Jennings*, *Pargiter* and *Danvers*, on all and every the said Returns, were clearlyailable by Law; and the Council of the said *Jennings*, *Pargiter* and *Danvers*, offered in Court very sufficient Bail. And he the said Sir *R. B.* being one of the Justices of the Court of *Kings-Bench*, denied to grant His Majesties Writs of *Habeas Corpus* to very many others His Majesties Subjects; and when he had granted the said Writs of *Habeas Corpus* to very many His Majesties Subjects, and

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and on the return no cause appeared, or such only as was clearly bailable by Law: yet he remanded them, where they remained Prisoners very long: Which said deferring to grant the said Writs of *Habeas Corpus*, and refusals and delays to discharge Prisoners, or suffer them to be bailed, are destructive to the fundamental Laws of this Realm, and contrary to former resolutions in Parliament, and to the Petition of Right; which said Resolutions and Petition of Right were well known to him the said Sir R. B. and were resolved on and Enacted when he was the Kings Serjeant at Law, and Attendant in the Lords House in Parliament.

Sir John Banks Knight, His Majesties Attorney-General, Plaintiff, the Right Reverend Father in God John Lord Bishop of Lincoln, Walter Walker, Tho. Lund, Cadwalader Powel, Richard Williams, William Catlin Clerk, Ed. Lake, Jo. Mosteyn, and George Walker, Defendants.

Proceedings upon the first Bill against the Bishop of Lincoln.

Camera Stellat'
11 die Julii
13 Car. Regis.
Proceedings
against the
Bishop of
Lincoln upon
the first Bill.

PRigeon's Credit coming in question, being a material Witness for the Bishop, the King's Attorney-General let fall the first Bill, fearing a defect of Testimony, and preferred a second Bill against the Bishop for *Tampering with the Kings Witnesses*, and upon that account the Cause came on the 11th of July, which held nine days debate in Hearing; and great was the Concourse of People every day to the Court of *Star-Chamber* to hear this great Cause, the Bishop being at that time much pityed by the People, who then cast out Speeches that that Bishop was prosecuted because the State wanted Money to go to war against the *Scots*, and that it was fit he should bleed in his Purse by the Censure of the Court of *Star-Chamber* to pay a round Fine to the King of 10 or 12000*l*.

This being a remarkable Cause, we will trespass upon the Readers Patience to cast his Eye upon Mr. Attorney-Generals Reply, and several of the Speeches made that day in Court at the passing of the Censure, for the brief of that Bill and Answer is mislaid, which we had once more at large.

The Information doth charge the said Bishop with a *Practice* unduly to gain the sight and perusal of certain Examinations taken by the Lords of His Majesties Privy-Council, and commanded by them to be kept secret from the view of all Men, to the end unlawfully and corruptly to procure Witnesses, directions and instructions for Witnesses to make Proofs to contradict and weaken the said Examinations: And for practising and corruptly tampering with Witnesses to retract their former Testimonies, and to vary from the same upon their second Examination: And for tampering with and soliciting other Witnesses, produced, and to be examined for His Majesty, not to depose against the said Lord Bishop, but to conceal their knowledge, and say they did not remember; and for Perjury in an Affidavit made by the Defendant *Catlin* in this Court, and subornation thereof: And for other offences, as by the said Complainants Information more at large it doth and may appear.

Upon

Upon full and deliberate Hearing whereof it plainly and evidently appeared to this Honourable Court, that there being another Cause formerly depending in this Court, between His Majesties Attorney-General Plaintiff, and the said Lord Bishop of *Lincoln* Defendant, for publishing false News and Tales, to the scandal of His Majesties Government, and for revealing of Counsels of State contrary to His Oath of a Privy-Councillor; one *John Prigeon* Gent. was in that Cause examined as a Witness for the Defendant, and by an Order made in *Hillary-Term* 10 *Car. Regis*, liberty was given to the Plaintiff to examine the Credit of the said *Prigeon* upon certain exceptions, which were delivered into this Court: And liberty given to the Defendant also to examine Witnesses to uphold and maintain his Credit; in one of which Exceptions was (amongst other things) contained, That the said *Prigeon* being by one *Elizabeth Hodgson*, upon her Oath, accused to have begotten a Bastard-Child on her Body: And being by the two next Justices of the Peace adjudged the reputed Father; and appealing from them to the next Quarter-Sessions held in the ninth Year of His Majesties Reign; to mislead the Court of Quarter-Sessions, and to free himself from that accusation, did at several times, and by several Persons and means, after he was so accused, labour to corrupt the said *Elizabeth Hodgson*, and for Money to procure her to lay the said Bastard-Child on some other Father, and to swear that some other, and not the said *Prigeon*, had begotten the said Bastard; and that he did labour, some Witnesses that could have testified against him, touching the said Bastard at the said Quarter-Sessions, to suppress their Testimonies, and drew or endeavoured to draw others to equivocate upon their Oaths, when they did appear.

Mr. *Gardiner*, Recorder of *London*, made a long and witty defence for the Bishop for several days together, much of which is repeated by some of the Lords in their Speeches, which (for brevity sake) we omit; referring the Reader to the Decretal Order of the Court, which the Register hath exactly drawn up, and which is mentioned at large in the Appendix; and also to those Repetitions which some of the Lords do make of the Defence.

As to the first Bill depending against the Bishop of *Lincoln* in the Court of *Star-Chamber*, it was occasioned by the Examinations taken by some of the Privy-Council, of Sir *John Lamb*, and Dr. *Sibthorp*, who (amongst divers other things) testified against the Bishop of *Lincoln*, that the said Bishop did give them great discouragement in their Proceedings in the Ecclesiastical Courts against the Puritans; and that the Bishop asked Sir *John Lamb*, what kind of People those Puritans were of whom he complained, and whether they did pay the Loan-Money? to which Sir *John* replied, They did conform upon that account, and paid their Money; but nevertheless they were *Puritans*, not conformable to the Church: to which the Bishop replied, If they pay their Monies so readily to the King, the *Puritans* are the Kings best Subjects, and I am sure, (said the Bishop) the *Puritans* will carry all at last. These Examinations were Sealed up, and Mr. *Trumbel*, Clerk of the Council, was required to keep them secret, and permit none to see them; but

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but a discovery thereof was made to the Bishop, which, amongst other Matters of State, was the occasion of the first Bill in this Court against the Bishop, as the Information did set forth.

Sir John Banks Knight, His Majesties Attorney-General, his Reply in the Case against the Bishop of Lincoln.

May it please your Lordships,

Sir Jo. Banks
his reply in
the Cause a
gainst the Bi-
shop of Lincoln.

Y Our Lordships have heard a Defence made by the Defendants Councel, that consists more of observation than of Proof, and in examination of his Defence, I shall make it appear plainly, that they very much fail in their own Observations. In their Observations they have been curious in distinction of Times, Place, and other Circumstances, to descant upon the Particulars of Witnesses, and Men that were no Parties to the Suit; but for the main substantial Parts of the Defence they have omitted. I shall desire to observe to your Lordships, that (with a great scandal on His Majesties Proceedings in this Court) they have told you Stories and Tales that should be ground of this Suit, *viz.* That it was through malice and hatred between Sir *John Mounson*, Mr. *Amcocks*, and *Prigeon*; whereas it shall appear unto your Lordships, that the Suit was upon most just Grounds, for the vindicating of publick Justice, and that Sir *John Mounson* hath done nothing in this Cause, but according to the Duty of his Place, and clearing his own Reputation. It will be necessary, since these things have been stirred, not for your Lordships Information (who know it well) but for the satisfaction of the World, to clear and justify His Majesties Proceedings, that I give you some Information of the true Ground of this Suit, and of the necessity of it.

Michaemas 4 Car. an Information was exhibited against my Lord Bishop by my Predecessor, and that was for the contriving and publishing divers false Tales and News, to the scandal of His Majesties Government, and for revealing some things contrary to the Duty of his Place, and Oath, as a Privy-Councillor. This Cause came to Issue, and in the examination of Witnesses, another Issue happened, a collateral matter by it self touching the Credit of *Prigeon*: Upon examination of this it fell out, (which we could not discover before Publication in the first Cause) that there had been such tampering, seducing, and labouring of the Kings Witnesses, as never was in any Cause: There hath been such Preparations, such Instructions, such Limitations to his own Witnesses, to direct them how far they should swear, to what to give answer, and to what not. My Lords, these Proceedings (if they might be suffered) tend totally to the subversion of all Justice: For the Proceedings in this Court, as in all other Courts, is by examination of Witnesses returned in Parchment, not *viva voce*; therefore if any be instructed what to swear to, and it so returned in Writing, whether through threats, or for fear, or favour, or affection, it is impossible you should give a just Sentence, though you intend it never so clear. My Lords, this appearing after Publication in the first Cause, it was time (for Example sake) to bring this Cause
and

and these Misdemeanours to a publick Sentence, to be a terror to all others for the like. So as (my Lords) this Cause is not grounded upon the fabulous Story between Sir *Jo. Mounson*, Mr. *Amcocks*, and *Prigeon*, but upon these just Grounds and Proceedings; and herein we have great cause to bless God, and magnifie His Majesties Justice, that we live not under a Cobweb-Law, that taketh small Flies, and lets great ones pass. This Presence doth tell us, that Honourable Persons who do deserve well have His Majesties Favour, and their own Merits do receive a double Honour; and this person (how great soever) if he deserve ill, he must receive a Sentence according to his just demerit.

My Lords, I shall come now to the particular Charges, and therein I shall begin with the first Charge, which is concerning the tampering with the four Witnesses, who deposed about this Bastard-Child; wherein the state of the Question standeth thus.

In *February 10 Car.* there was an Order for the examination of *Prigeon's* Credit: Among other things there fell out a Question concerning a Bastard-Child, whether *John Prigeon* was the reputed Father yea or no? There was for the Proof of the Fact produced before the Justices Dr. *Topham* and Dr. *Farmery*; and before the Justices at publick Sessions several Witnesses, four of them, *Lunn*, *Wetherel*, *Anne Smith*, and *Tub*, deposed directly, that this *Prigeon* was the Father of this Child; some by confession from him, some by confession from her self being the Mother of the Child, who were present at the time of her delivery.

These Examinations thus taken, for the truth of it that he was the Father of the Bastard-Child, the Justices did certifie it in publick Sessions accordingly. But now my Lord of *Lincoln* conceiveth with himself, that he cannot support the Credit of *Prigeon* (which concerned him so much) unless he could get these four Witnesses to vary from their former Testimony, and by his Agents hath laboured as you have heard. To this they have seemed to make some Answer: 1. The Order made 2 *Maij 9 Car.* and that was before Sir *John Bowles*, Serjeant *Callis*, and others; and that Order was to acquit *Prigeon* of the Bastard-Child, and to lay it upon one *Booth*. To that I shall give a clear Answer: First of all, Dr. *Topham* and *Farmery* that were the Men that took the Examinations concerning this Bastard-Child, were not present at the making of this Order. Secondly, The Witnesses, those four of them that should give the Testimony for the Proof, no one of them were present; and it is proved that *Wetherel* was hired to be absent: And in the last place, this Order 2 *Maij* was contraried by the Order 3 *Octob.* when all the other Justices save Sir *John Bowles* were present at the Sessions. And for the Order that was confirmed by the Court of *Kings-Bench*, it was upon the Regality of the Order, but not in respect of the Fact. And (my Lords) there is another Ground of it; for at that time *Prigeon* had submitted to keep the Bastard-Child, and given Bond to discharge the Parish, and maintain the Child. This was proved by two Witnesses: But the offence is not concerning this Bastard-Child; for suppose a Man had a Bastard-Child, will that make his Testimony wholly void? The Charge is, that after such time, as this was fully deposed by four Witnesses, there must be a labouring with them, and giving of

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Money to make a Retraction. 1. For *Wetherel's* Retraction, your Lordships have heard he was examined at the Sessions 1 *Octob.* that he did confess there *John Prigeon* intreated him not to appear at the Sessions, and that he should answer to no more Questions than the Court asked him; this was his deposition at the Sessions. Being examined in the second Cause, there he doth mince his Deposition, 160. *Int.* he saith *Prigeon* did not draw him by Bribes or Rewards to equivocate, &c. And that it was for Bribes and Rewards it appeareth by *George Walker's* Examination; for he sweareth, that this Money was to be paid to a Butcher by 6 *d.* in a Joynt; so it was not given as a Bribe, but by 6 *d.* in a Joynt of Meat. *George Walker* sweareth, that *Owen* and *Powel* shewed *Wetherel* a Dictionary, and shewed him the meaning of the words *Equivocation* and *Subornation*, and this Discourse was related to *Elizabeth Smith*. To which the Recorder replied, Mr. Attorney mistakes himself; I will not (saith the Attorney) touch upon any thing in my Reply that will not plainly appear in the Books.

To take off this Charge concerning *Wetherel*, they have read *Wetherel's* Deposition, (against whom all this Proof is) to the 2, 3, 4, and 5 *Int.* to which Interrogatories his Deposition is a plain Negative pregnant, made upon a leading *Int.* thus: Whether did *Powel* at the time and place aforesaid request you to write your Name to any Note at all? (to shew that it is leading) *Wetherel* answereth *Int.* 5. That the said *Powel* did not in *January* aforesaid, at the place aforesaid, request him to write his Answer to any Note, or to any Note to such effect; so he sweareth he did not at that time and place shew such a Note. The Deposition of *Walker* is, That by the direction of *Owen* and *Powel* he tendered the Note, as by the direction of the Lord Bishop. Another thing upon the examination of *Wetherel*, he was not examined till the 16th of *May* 13. and at that time he had Copies of *Walker's* Examinations, and so prepared himself.

This is the Answer I give to the Deposition of *Wetherel*.

They had next *George Walker*, a Defendant, who hath confessed against himself sufficient matter, for which I hope your Lordships will Sentence him. It is proved he was employed to tamper with *Alice Smith*, and he must be the Man to give an account to my Lord Bishop of the Proceedings. They say it was a lawful and justifiable thing to ask a Witness a Question, and that *Wetherel* was but ask'd the Question, and nothing more: My Lords, here is more than asking the Question, it appeareth in the Proof that there was a Note delivered by *Powel* to *Walker* to subscribe, there was shewing to *Wetherel* a Dictionary to expound the words *Equivocation* and *Subornation*; so it was not an asking for bare information, but a tending of Notes to avoid equivocation in the Cause.

In the next place they have insisted upon the Deposition of *Lunn* and *Alice Smith*; wherein they say, that what they have said was but an Explanation of what they had formerly sworn, and no retraction, and that it was lawful for a Witness to explain himself; but it will appeare to be a plain Retraction. 1. *Alice Smith* did depose

pose formerly, that *Prigeon* sent for her, desiring her to see if she could get the Woman lay the Child upon any other. That was her Deposition at the Sessions. But in the second Cause she swear-eth it was to get her to lay the Child upon any other that she reputed to be the Father of it, and not upon himself. And so for *Anne Tub* her Deposition at the Sessions, that *Prigeon* had offered her 20 s. to get her lay the Child upon any other but upon him; but her Deposition in the second Cause to lay the Child upon some that were the true Father: so here is a Deposition that a Bribe should be given to lay the Child upon any other but upon *Prigeon*, and now to depose to lay the Child upon the true Father, is a crossing of the former Deposition, and far from an Explanation.

They have taken some Exceptions to *George Walker*, to shew how improbable a thing it was, that he should be a fit person to negotiate in this business, and they told your Lordships some Reasons, *George Walker* and *Prigeon* were not kind, and therefore unlikely *George Walker* should be employed for supporting the Credit of *Prigeon*. 1. In this Particular they have not read that there was any difference between them two. 2. *George Walker* might be very well made choice of to be employed, for he was a Proctor in my Lord Bishops Court. 3. Suppose there were differences between them two, this was an Employment for the Bishop of *Lincoln*; for this was a Service for my Lord Bishop, who was much engaged to maintain the Credit of *Prigeon*, for it appears out of his own mouth by 3 Witnesses, that it had cost him 1200 l. and 1000 l. to maintain his Credit; for *Prigeon* at this time had taken the Child upon him, but the Service that was to be done was for the Bishop, and therefore *George Walker* a fit man for it. But they say here was only a Question asked of *Alice Smith* whether she had said so? here was no tampering with her to alter her Deposition: Look upon the Deposition of *Alice Smith* to Int. 29, 31. and there it will appear unto your Lordships, it was not a bare asking of a Question; did not he say it was to lay the Child upon any other that was the true Father? but the very question asked, they endeavoured to have proved in the second Cause. The question was, whether that *Alice Smith* could depose that *Prigeon* said unto her, get the Woman to lay the Child upon the true Father? *George Walker* brought word to the Bishop they could get nothing from her as yet.

E. Smith Int. 29. saith, *Alice Smith* did then and there seriously affirm, that *Prigeon* offered her 5 l. to lay the Bastard-Child upon any other, and not upon him: and then this Deponent asked her, if she were not mistaken, for he meant it was to lay the Child upon any other that was the right Father; she answered again, no, she was not mistaken, the 5 l. was to procure her to lay it upon any other, and not upon him; and said further, that the Woman had acknowledged *Prigeon* had twice the use of her Body against the Church-wall; that *George Walker*, in the presence of *Powel* and *Owen*, and others, related unto them the substance and effect of the whole Discourse with *Alice Smith* at *Morton*; and one of them desired to write his Letter to the Bishop to give him satisfaction, and told this Deponent it was desired by *Owen* and *Powel* to give his Lordship an account of their Journey; in which Letter was expressed, that they could gain nothing out of *Alice Smith*.

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My Lords, to confirm this we read *George Walker Int. 17.* who proveth the like pressing of *Alice Smith*; and in the end the consequence was, *Alice Smith* did vary from what she had formerly sworn.

Next place they have given some Answer unto *Robert Richardson*, to the 35. *Int.* (which being read was to this effect) saith, *John Prigeon* the elder did acquaint this Deponent to come and speak with the Bishop of *Lincoln* before his Examination, and accordingly his Lordship did in his little Parlour speak with this Deponent, and did then and there acquaint him, that he had seen the Copy of the Examinations taken at the Sessions, and did ask this Deponent who drew up the same; this Deponent answered his Lordship, that he did it as Clark of the Peace: the Bishop said he was mistaken in the penning of the Deposition, for that he should have said, to lay the Child upon the right Father, and not otherwise. The Bishop ask'd how he would interpret the Record; he said he could think no otherwise of it than as the Witnesses had sworn. And this Deponent further saith he verily believeth his Lordship would have had him to have altered the Record, that it might not trench upon *Prigeon's* Credit, for he would have had him given it a right Father.

My Lords, your Lordships may observe first of all, that my Lord Bishop sent for *Richardson* to come to him and speak with him, before he should be examined; then my Lord asked who drew the Deposition of *Anne Tub* and *Alice Smith*; he told him they were drawn up in open Court; he said he thought the Deponent was deceiv'd, for it should be upon the right Father; so here was a Retraction, which was the Point in Issue. 3. He asketh him how he would interpret the Record, and wished him to be tender of *Prigeon's* Credit.

My Lords, this is of great consequence; for if my Lord Bishop could have gained the razing of this Record, to lay the Bastard-Child upon any other that was the right Father, then he had gained the Cause; for the tampering with Witnesses was the Ground of the Cause.

The next Objection they made, was touching the fetching away of this same *Alice Smith*. They have told your Lordships, that she was brought to *Huntington*, and not finding the Commissioners there, they brought her up to *London*, and here she was examined, and if the Kings Council would have examined her, they might have exhibited *Interr'*; and they have told your Lordships, that the Charge was, that she was shifted from place to place, that she might not be examined as a Witness for the King. They have utterly mistaken this Charge of the Information; for the Charge is, that they did shift her away from place to place, that she should not be examined as a Witness at the Commission. 2. Of purpose to cause her to vary and retract her Testimony, by working with her during the time of the execution of the Commission, that she should have been examined for the King: For this Commission was executed at *Bedford* but twelve Miles from *Huntington*, where they were with *Alice Smith*; and if they had not an end in it, they might as well have brought her to *Bedford*, being but twelve Miles, as to *London*, being 50 Miles. 9. *Martin* the Commission

mission was executed at *Bedford*: 13. *Martij* executed at *Leicester*: 21. *Martij* adjourned and executed at *Lincoln*: 7. *Aprilis* executed at *Huntington*; and the very Day that she was examined at *London*, this *Alice Smith* they sent unto her, and proffered her Money, told her she should never want; she went away in poor Habit, glad to borrow her Maids Cloaths, returneth again Gentlewoman-like, and lendeth Money.

13 Caroli.

They say, when she was at *London*, she continued there keeping an Ale-house at *Whittingtons-Cat* till the Sicknes in *Michaelmas-Term*, and then was forced to go into the Country; and all that time they might have examined her for the King, living in so open a manner. I agree, she might have lived openly at *Whittingtons-Cat*, and be known to the Justices of the Peace for keeping of an Ale-house, or perhaps for her good Behaviour; but how the Prosecutor of the Cause should come to find her, I know not: when she was with her Husband, all his Goods had like to have been taken in Execution, and she had not 40*s.* to redeem them; yet she had Means enough to furnish an Ale-house, and to live afterwards Gentlewoman-like. But (my Lords) they have pressed us how we bring these Charges home upon my Lord Bishop, nothing fixeth upon him they say; God forbid he should be charged, unless he be an Actor or a Procurer.

1. Observe these Retractions, and these Variations in the Depositions, they were procured to maintain the Credit of *Prigeon*: It appeareth by three Witnesses that have been read, out of my Lord Bishops own mouth, that the maintaining of the Credit of *Prigeon* hath cost my Lord Bishop 1200*l.* and another speaketh of 1000*l.* If this Charge come not home to my Lord Bishop, why should he conclude himself of expending 1200*l.* to maintain his Credit; for it did concern my Lord Bishop, for he was his Principal Witness in the first Cause.

Owen and *Powel* were the Servants of the Bishop; and when in their Journey they could not prevail any thing with *Alice Smith*, then the account of this must be given to my Lord Bishop, and *Walker* must write a Letter accordingly: *Cui bono*, say they, who should receive benefit but *Prigeon*? *Prigeon* was the Principal Witness in the first Cause, my Lord Bishop did maintain his Credit; it was no advantage to *Prigeon*, for the Bastard-Child was submitted unto. And then your Lordships have heard what a tampering hath been with *Richardson*, and that by my Lord himself, who sent for him to come and speak with him before he was examined; and if he had prevailed with *Richardson* upon this, there had been an end of the business, for the Retraction of *Anne Tub*, and *Alice Smith*, and *Wetherel*, had been as he would have it; then for the leading *Interr*' exhibited by himself in this Cause; so as I say these things trench upon the Bishop, and upon *Cadwallader Powel*, and *George Walker*, that were employed about *Alice Smith*: he procured *Wetherel* to subscribe a Note, would have the meaning of the words *Equivocation* and *Subornation* to be expounded; and this is the Man must give an account of the Proceedings with *Alice Smith* to the Bishop; and all this appeareth upon his own Examination.

These are the things upon the first Charge.

I shall

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I shall proceed to the second Charge, my Lord Bishop of *Lincolns* scandal of the publick Justices of the Sessions, in saying the Order 3. *Octob.* was a Pocket-Order, made in an Inne or an Ale-house, and before any Witnesses were examined. Your Lordships may remember, that upon this Charge we made Proof, 1. That the matter of the Order was resolved by the whole Court. 2. That what Sir *Jo. Mounson* did was at the open Sessions, and at the desire of the other Justices. 3. That my Lord Bishop of *Lincoln* had notice of the due making of this Order, and was satisfied it was justly and duly made; yet when Sir *John Mounson* was gone into the Country, he questioned it, that it was not made legally, but was a Pocket-Order made in an Inne or an Ale-house; proved by three Witnesses.

That which hath been said against this Charge, That the Bishop had reason to question this Order 3. *Octob.* for *J. S.* told him Sir *Jo. Mounson* pulled it out of his Pocket upon the Bench; it appeareth by Dr. *Farmery*, *William Parkinson*, and Mr. *Dallison*, that my Lord Bishop was informed the Order was duly made, yet he doth publish it to be made in an Inne or an Ale-house.

Next place they say *Parkinson* was a single Witness; he was no single Witness, neither for the tampering, nor for the scandal: for it appears by *William Amcocks*, the Bishop would have had the Order 3. *Octob.* impeached; and that if he were examined, he should say nothing: *Richardson* said, that the Bishop would have had him accuse Sir *Jo. Mounson* for the undue making of the Order; so as I say for the scandal, and for the tampering in this kind, *Parkinson* was not a single Witness; nor in the affirming that the Bishop said it had cost him 1000 *l.* to maintain the Credit of *Prigeon*, for Sir *Thomas Mounson* and *Smith* both swear the Bishop said it had cost him 1200 *l.* and *Parkinson* speaketh of 1000 *l.* and saith further, that the Bishop threatned to bring him into the *Star-Chamber*, because he would not comply with the Bishop; but they say against *Parkinson* he was prepared by an *Affidavit*. For that, I must remember unto your Lordships that this *Affidavit* was made by *Parkinson* upon occasion of the abuse offered by my Lord Bishop at the execution of the Commission; at which time the second Suit was not thought of, for it was doubted whether we should proceed upon the *Affidavit* according to many Presidents, or by way of Information, which was the Cause of this Information. They say this Report might be raised by *Prigeon*: besides, no time appears when this scandal was raised; they are mistaken in this, for it appeareth by *Parkinson* 43. *Int.* that the Bishop said 20. *Martij* 10 *Car.* it was a Pocket-Order, and made before Witnesses were examined: and then *Richardson* *Int.* 78. to the same purpose; and *E. Smith* *Int.* 78. that this scandalous Report was published in *March* 10. They say here was only a breach of a Promise; the Bishop only made a Promise to Sir *Jo. Mounson*, that his Order should not be examined after he was gone into the Country; and will your Lordships punish a Man for the breach of a Promise: The breach of the Promise was not the thing, as the betraying of the Truth in the Kings Cause, and it was the policy of the Bishop to send away Sir *Jo. Mounson*, and afterward draw it into question in his absence.

I do

I do not remember any more they have said concerning this Charge. But now it appeareth upon this Charge, 1. That the Bishop hath published that this Order was made in an Inne or an Ale-house, before any Witnesses were examined, to the scandal of publick Justice. That is the first offence in this second Charge. 2. It is scandalous against his own knowledge, proved by three Witnesses. 3. His endeavour to suborn *Parkinson*, 1. To send for him before he was examined, and would have had him say the Order 3 Octob. was made in an Inne or an Ale-house. 2. To affirm to *Parkinson*, that some of the Justices had confessed as much, and did threaten him, that if he did not agree with the Justices, he should be questioned in the *Star-Chamber*; and when he could not prevail with him, then he did direct him, if he were examined he should answer only to the bare *Interr*; so in these Particulars my Lord Bishop is concerned in this Charge. *Lunn*, he is concerned in this also, for he was imployed to speak with *Parkinson*, and kept him from the Church, lest he should meet with *Kilvert* who was an Informer: And *Int. 5*, he wished *Parkinson* to answer to no more than to the bare *Int.* and he should be well paid for his pains. So as I shall leave this second Charge, which doth reflect upon my Lord Bishop and *Lunn*. And whereas they have pretended, that Sir *Jo. Mounson* should be an Enemy to *Prigeon*, there was no Proof at all of that in the Books; for in truth he was the best means to release *Prigeon*, to get the Order in the *King's-Bench*.

The third Charge is concerning the *Affidavit* of *Catlin* 11 Maij 11 Car. made a scandalous *Affidavit*, which was, that *Parkinson* told him, he came to swear against the Bishop, and that Sir *Jo. Mounson* had promised him 100 l. for it, and he would swear home, and feather his Nest by swearing against my Lord Bishop. 1. Your Lordships have observed what manner of Person he was that made the *Affidavit*, he appeareth by the Sentence in the High Commission to be a common Swearer, a common Bail, &c. so infamous, as I shall not need to repeat the thing in the Sentence; and for any thing said to support his Credit, nothing will sway with your Lordship's Judgments.

That that *Affidavit* is false, appeareth by *Parkinson's* Oath; and that it was contrived in an Inne in the presence of *Walker* and *Mostein* is plainly proved.

In this the Defendant's Council first make Objection against the Sentence, that this Sentence was after such time as he was examined; and though he be convicted of a scandal subsequent, that doth no way blemish his Testimony: 1. I say, by the Sentence it doth appear it was for offences done three or four years before his Deposition taken; so the Sentence was for matter of offence done before his Deposition, and the Sentence is but *Declaratory* of what he was then: But they have read five Ministers, that *Catlin* is a Man of good Credit, and one that preacheth well, and maketh a Conscience of an Oath. 1. These Witnesses are but such Witnesses as we produce upon our Law-wager, or for Compurgators; they swear only as in common Charity: every Man is bound to think another Man honest, unless they did know the contrary, and some of these Witnesses live a great way off, some 40 Miles. The main part of their defence hath been to discredit *Parkinson*, and that they have

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have done two ways: 1. They say he was a disguised Person, and came in a Minister's Habit, and called himself by the name of *Parson Watson*, to entrap *Catlin*, and therefore a Witness not to be believed. 2. They do pretend that *Parkinson's* Deposition was taken to fortifie his *Affidavit*.

For the first, this great Matter that he should be a disguised Person, and forswear his Name, and call'd himself by the Name of *Parson Watson*, and *Catlin* not to know him, the matter was thus.

When *Parkinson* did see what an *Affidavit Catlin* made against him, he did say, that this *Catlin* did not know him; to that end and purpose, going with Mr. *Culverwell* a Gentleman of 400*l. per Annum*, went purposely into *Catlin's* company to see if he did know him. We shall prove unto your Lordships, that *Parkinson* did not come in any disguised Habit; true, he was in a black Suit, but in no Ministers habit, nor Coat upon it, but in a black Suit proper for a Justice of Peace's Clark: Your Lordships will rather believe that which is judicially sworn, than extrajudicially spoken. I shall desire to read two or three Witnesses to prove, that *Parkinson* did not come in any such disguised Habit; which being read, Mr. Attorney proceeded, saying, 1. I shall observe, that the two Witnesses, *Booth* and his Wife, swear he did not come in any Minister's Habit. 2. It appeareth for half an hour together *Catlin* did not know *Parkinson*, till Mr. *Culverwell's* laughing at *Parson Watson's* proffer to Preach at *Catlin's* Church next day.

In this third Charge I shall observe, how it trencheth upon these Defendants, (1.) You find *Catlin* guilty of Perjury in making of a false *Affidavit* against *Parkinson*; and that he hath been formerly indicted of Perjury, your Lordships have heard by the Sentence in the High Commission. *Walker* and *Moslein* were present at the contriving of the *Affidavit*. It was all one to *Catlin* whether to swear against Sir *Jo. Mounson*, or Doctor *Farmery*.

My Lord Bishop of *Lincoln* (it should seem) did take this as a courtesie done unto him, for he did intend to give *Catlin* a Living of fourscore pounds *per Annum*, but that he was advised by *Walker* to stay this Living till this Cause was heard. My Lord Bishop writ his Letter unto *Richardson* on *Catlin's* behalf, that if any Indictment were at Sessions against *Catlin* for a Common Barrator, he should stay the same, and *Powel* his own Servant carried the Letter. Besides Witnesses swear *Catlin* did boast of his Favour from the Bishop: he brought Gold home with him, besides three pound given him to bear his Charges.

I shall now proceed unto the fourth Charge, which standeth thus: 20 *Martij 10 Caroli*, a Commission was executed at *Lincoln*, and this was to examine him touching the credit of *Prigeon*; divers Witnesses were there produced on the King's part. My Lord Bishop, and other the Defendants did draw from the King's Witnesses what they had deposed, and threatned some of them after they were examined on the King's part; this is the Charge.

Lancelot Harpham to the 94th Inter. saith, upon this Deponent's Relation my Lord Bishop willed *Lunn* to Call for Pen, Ink and Paper, and wished this Deponent to write down the substance of what he had sworn, which this Deponent by his Lordship's persuasions did; but when his Lordship had read the same he liked it not,

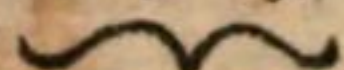
not, but wished the said *Lunn* to write down the Substance of this Deponent's Relation, which he did accordingly, and then this Deponent subscribed his Name thereunto; then the Attorney-General said, here was the offence of the Bishop to draw from *Harpham* the substance of what he had sworn, the Charge being for tampering with *Harpham*, and other the King's witnesses. *Bates* saith he was sent with a message from the Bishop to *Edward Smith*. These things are laid as crimes upon my Lord Bishop in this fourth Charge. (1.) In sending for *Edward Smith* before he was examined, and conveying him out at the back-door that my Lord Bishop should instruct him what to depose, sending for him after examination, questioning him what he had deposed, and told him he had sworn maliciously. Next place was this Message intended for *Edward Smith*. (3.) The threatening of *Edward Smith* the King's Witness, that he would sit upon his Skirts. (4.) My Lord Bishop's sending for *Harpham* after he was examined, making him set down the substance of his Deposition. (5.) *William Amcock* sweareth that *Powel* shewed him an Interrogatory ready drawn to swear unto, and wished him to be careful what he swore, when he was examined for the King; For *Lunn*, he said, he never plaid the Knave but in this business.

13 Caroli.

As to the executing of the Commission at *Lincoln* in *March*, 10 *Caroli*, wherein *Kilvert* was employed to attend for the King: my Lord Bishop of *Lincoln* called him *base Fellow*, *sawcy Fellow*, *base Rascal*, proved by three Witnesses. The Charge is likewise against *Lunn*, who called him *base Fellow*, and told him *if the business were over, he should know he was a Man*. These imperious Speeches from the Bishop must needs dishearten the Witnesses that did come for the King.

Lastly, As to the Charge for undue getting of Copies, to the intent to make a Counter-proof of the King's Witnesses. Your Lordships may remember how *Allen* gave Information to the King against the Bishop, for the contriving of false News and Tales scandalous to the King's Government. The Referrees that took the examination of Dr. *Jo. Lamb*, Dr. *Sibthorpe* and others, they did trust Sir *William Beecher* in this examination; they gave him a Charge that the Examinations should be kept secret, accordingly he sealed them up, and when his waiting month was done, he delivered them over to Mr. *Trumbell*; yet by undue means my Lord Bishop got Copies thereof. (1.) It appeareth by Sir *William Beecher*, *Inter. 5.* that he was moved by several Persons at Court, to let the Lord Bishop understand the effect of these Examinations; and that my Lord Bishop made use of those Examinations, it appeareth by the proof that hath been read; and that the Seal was broken off, and Copies delivered to his Steward. Now whether these be not strong presumptions, that my Lord Bishop had the sight of them, I must leave to your Lordships.

My Lords, I have done with the particular Charges, and your Lordships have heard in the prosecution of this Cause, and in the proof of it a heap of Offences, all tending to the subversion of publick Justice; a labouring, tampering, suborning, seducing and sending away of the King's Witnesses to suppress the truth, to swear against the truth, and to cause Witnesses to make a Retraction;

An. 1637.  tion; a scandal raised against the proceedings of the Justices at the Sessions, and in particular an aspersion cast on the person of Sir *John Mounson*, as though he had made the Order in an Inn or an Ale-house, before any Witnesses were examined. I hope your Lordships will clear him in his Reputation, that he hath done nothing in this Cause but what becometh a Person in his place, and what at other times hath been done by him and other Justices in a publick manner. My Lords, these Offences, if they were committed by an ordinary Person are great Crimes in themselves, but being done by my Lord Bishop of *Lincoln*, who is *Praelatus*, to be a Guide, a Light, a Judge among the King's People, and to have a superintendent Cure of Souls within his Diocess, these things considered in his Person must needs aggravate his Offences, for him that should be a Light, to become Darknes, and a Guide to lead men into Error, a Judge to overturn the Course of Justice, in suborning of Witnesses, &c. These things if they be not remedied will draw upon this Nation, that Infamy that was upon the people of *Greece*, that they would buy and sell testimony, *Dare mutuum Testimonium*: But what followed upon that, but the subversion and ruine of the Common-wealth? For him that hath this superintendent Cure of souls, to do any thing for the destroying of mens souls, it is an high Offence. *Fleta lib. 5. cap.* who writ in the time of *E. 2. Si Per-jurus*, &c. That the Man-slayer killeth the Body, but the suborner killeth his own soul, and the soul of him that sweareth.

(1.) Against my Lord Bishop I pray Judgment, that he may be deeply fined, and receive a declaratory sentence of this Court, as unworthy of any Ecclesiastical Dignity or Sacred Orders, and to be recommended to the High-Commission for that purpose; *Pas. 34. Eliz.* in a Suit in the Star-Chamber against the Bishop of *St. Davids* for contriving and publishing of a forged Will, he was here fined, and referred to the High-Commission for further proceedings.

10 *Jac.* *John* Bishop of *Down* was convented before the High-Commission, and was there degraded for suborning of Witnesses.

Third place, I desire not only a Reparation of the Credit of Sir *John Mounson*, but damages for the scandal; and though he be neither Party nor Relator, yet damages have been given by this Court to a third Person.

Mich. 31. Eliz. Three Gentlemen that were no parties had 300 *l.* damages given them, as in the case of the King's Attorney against *Price*, damages were given to a Sheriff that was no party.

Mr. Attorney-General having ended his Reply, the Court proceeded to pass their Censure; ——— and the Lord *Cottington* first begun and spake to this effect.

The

The Lord Cottington's Speech.

My Lords,

‘The business we are now met about, to put a Period unto
 ‘which hath taken up so much time already in this Court,
 ‘that I intend to be very short in what I have to say. If we go to
 ‘the Well-head, and look at the Original, (from whence these
 ‘foul Streams have issued) it is very small, and the inconveni-
 ‘ces my Lord hath fallen into, are rather of his own seeking, than
 ‘any ways properly offered unto him out of the former Passages,
 ‘which touched his reputation in this Court: However that Maxime
 ‘stands true, *Quisq; est fabricator sue fortune*. I am sure in this,
 ‘that through the whole Passage and Current of it, he hath
 ‘fought and wrought his own overthrow; and I am sorry that so
 ‘great a Person, so wise, and so well-experienced a Man, and one
 ‘who hath fate here himself, should now come to be Censured for
 ‘so foul Crimes, so far unbeseeming his Function, and those Dig-
 ‘nities he hath been graced withal in this Common-wealth. I
 ‘find (all the way) several undue practises, many hainous at-
 ‘tempts, and foul faults in his Agents, countenanced (nay maintai-
 ‘ned and set on) by his instigation, for which I hold both him and
 ‘them worthy the Censure of this Court.

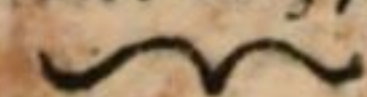
Concerning
 the Bishop of
 Lincoln.

‘I promise brevity, therefore I omit the relating of any thing
 ‘concerning the truth of the matter, which concerned *Alice Smith*
 ‘and *Elizabeth Hodgson*. If that *Prigeon* had been free from the
 ‘getting of the Bastard, and that he had suffered that way inno-
 ‘cently; it had been better for my Lord of *Lincoln* to have advised
 ‘him to a patient undergoing that affliction, and have stopt the
 ‘publick defamations, which might grow thereupon, with as little
 ‘noise as he might, *Quam queat minimo*: But these stirs which
 ‘follow after, and the great Expences which my Lord Bishop of
 ‘*Lincoln* was at to preserve *Prigeon*’s Reputation, plainly shewed
 ‘there was somewhat more in it than ordinary, when, rather than
 ‘that should be tainted, my Lord would absolutely overthrow his
 ‘own.

‘*Prigeon* was to be a Witness for my Lord Bishop, and a main
 ‘person he was, on whom he depended for the clearing himself of
 ‘those Charges, which your Lordships know he was taxed withal,
 ‘by the first Bill. In the mean time a Bastard is laid unto him by
 ‘*Elizabeth Hodgson*, which in my Lords Estimation was much disa-
 ‘bling to *Prigeon*’s Testimony; and therefore my Lord Bishop what
 ‘doth he? He not only labours to suppress a Truth, and to conceal
 ‘a fault in his Witness, but he will have him discharged of it, *Quo*
 ‘*jure quare injuria*, it matters not.

‘Hereupon the Proceedings of the Justices of the Peace must be
 ‘either made none, or put out of order, so that they stand in-
 ‘stead of none. A new Father must be found, and because there
 ‘was a Commission to be fate upon, and Witnesses to be examined,
 ‘some must be absented till the Commission was over: others are
 ‘deterred and threatned, and Sir *John Mounson* and Dr. *Farmery*

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‘ must be held for to act nothing that must stand in this Cause,
 ‘ (though in the publick Sessions) but their Orders in that Cause
 ‘ are Pocket-Orders.

‘ *Owen* and *Powel*, two Servants to my Lord Bishop of *Lincoln*,
 ‘ they set their Wits to work to convey *Alice Smith* out of the way,
 ‘ and that with Rewards of no small value. Letters are written,
 ‘ and much ado there is; the several Misdemeanours of *Lunn* and
 ‘ *Walker* are apparent enough; and *Catlin* he comes not behind the
 ‘ rest, nor must I let him pass, although he hath better luck in the car-
 ‘ riage of his knavery than any of the rest; and for the procuring,
 ‘ gaining, and keeping of Depositions from the custody of the
 ‘ Council-Table, and the Clarks there, it’s plain enough, I will
 ‘ make my word good, and go to Censure.

‘ *Cadwalader Powel* I fine at 200 l. *Owen* I fine at as much; *George*
 ‘ *Walker* and *Catlin* at 300 l. a-piece.

‘ *Lunn*, (who is an Agent in all the Business) I hold him unfit
 ‘ for to be an Officer any more, (he now being a Proctor-Register)
 ‘ I fine him at 300 l. And for my Lord Bishop of *Lincoln*, I fine
 ‘ him at 10000 l. to the King, and to be Imprisoned in the *Tower*
 ‘ during His Majesties Pleasure, and to be suspended from all his Ec-
 ‘ clesiastical Functions, both *ab Officio & Beneficio*; and I refer him
 ‘ over to the High Commission-Court to Censure him as they think
 ‘ fit concerning his Degrees, and to repair Sir *John Mounson*’s Re-
 ‘ putation, to pay him for the injury done to him, in particular
 ‘ 1000 Marks.

Sir John Finch his Speech.

My Lords,

‘ **T** His Cause hath held us already nine days. I find in it six
 ‘ Charges.

‘ 1. The first and main is for tampering with Witnesses, to re-
 ‘ tract their Testimonies, or to vary from the same.

‘ 2. For seducing them not to depose at all.

‘ 3. For undue practising to gain a sight of some Examinations
 ‘ kept in the Council-Chamber by the Clarks of the Council.

‘ 4. For preparing and instructing Witnesses by the said Exami-
 ‘ nations.

‘ 5. Perjury in *Catlin* in an *Affidavit*, and subornation thereof.

‘ 6. Other undue Proceedings, whereby to cause Witnesses to
 ‘ say, that they did not remember, or the like.

‘ I will only insist upon two things.

‘ *First*, How this trenched upon my Lord Bishop of *Lincoln*.

‘ *Secondly*, How far, and in what manner he pursued it.

‘ I question not whether the Child gotten upon the Body of *E-*
 ‘ *lizabeth Hodgson* be *Prigeon*’s, yea or no; However the Justices of
 ‘ the Peace at the Sessions, Doctor *Topham* and Doctor *Farmery*
 ‘ give up, that it is laid to him: Yet legally *Prigeon* is free, for by a
 ‘ *Statute 18 Eliz.* though the Order be, yet an Appeal may be made.
 ‘ Now in the second place, what is this to my Lord Bishop of *Lin-*
 ‘ *coln, utrum pater sit necne?*

‘ The

‘ The Bishop is taxed for scandalous words in matter of State, contrary to his Duty as a Subject to his Sovereign, contrary to his Oath as a Privy-Councillor. Now *Prigeon* being a Witness, must justify that no such fault slipped from my Lord Bishop, his Testimony, which seems to be suspected, and why? not for the having a Child fathered upon him, but for that he goes about in *publico* to suborn Witnesses, and to wrest the Truth by unlawful courses, and it is to be thought that he, who was of such an evil Conscience, as that he would cause others, by any way of bribes, gifts, threats, or the like, to forswear themselves, and hazard their Souls, might himself easily be tampered withal to do unjust Acts, and to take that false Oath also by himself, being led to it by Hopes and Rewards, which he by all means sought to procure in others, for his own safety.

‘ Now if my Lord Bishop of *Lincoln* had used other means, and gone the right way to maintain the Credit of his Witnesses in a fair manner, it had been commendable; but whether he did so or no it is to be inquired after.

‘ By the way, my Lord, give me leave to say what I think, it is not always necessary in this Court to have a Truth proved by two or three Witnesses: Men will be wary in Bribery, and Extortion, and the like, to do it in publick, or to have many acquainted with those works of darkness. And *singularis Testis* many times shall move and induce me verily to believe an Act done, when more Proofs are shunned.

‘ But to come to some of the Particulars, I find here, that *Wetherel* hath been often tampered withal, by two of the Bishop’s Servants, *Owen* and *Powel*, and there was a Note shewed to *George Walker* to enquire of *Wetherel*, whether *Prigeon* had done any thing with him or no?

‘ But to take off this, (Mr. Recorder saith) *George Walker* is *singularis Testis*. Now it’s plain *Wetherel* swears punctually, that he met with *Prigeon*, and was advised to speak sparingly, and no more than he needs must.

‘ For *Alice Smith*, she deposeth that *Prigeon* wish’d her to win *Elizabeth Hogdson* to lay it to some body else, and he would give her 20 s. and so doth *Anne Dove*; now *Alice* must afterwards equivocate, and say, she was proffered Money to get her to lay it on the right Father, which to induce her to is no hurt.

‘ And I find, that *Alice Smith* is carried away on Horse-back by *Powel*, and absented till the Commission was set, and was past, at *Lincoln*, and then brought back again by *Powel*. And I find she went out poor and needy, she returns well clad, Gentlewoman-like, and able to lend 8 l. at a time, who was (before *Owen* and *Powel* tampered with her) so poor, that her Goods were distrained upon for Rent.

‘ *George Walker*, he saith he could do no good with them, and so writes to the Bishop. Now for *Richardson*, the Bishop told him, that he knew the Orders that were made at the Sessions, and *Richardson* is tampered withal to suppress that Order, and told, that if he would, he might do the Bishop good Service.

‘ Now for *Lunn*, I find him run through with the Bishop in all the Case, he teacheth to smother and to equivocate; so that I find

‘ *Powel*

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‘ *Powel, Owen and Walker*, guilty of the first Charge; *Lunn* I shall Sentence, but not for that Charge.

‘ Now my Lord himself, out of his own mouth, profess’d to two Witnesses, *videlicet*, to Sir *John Mounson*, and one *Edward Smith*, that to defend *Prigeon*’s Credit it had cost him 1000*l.* if not 1200*l.*

‘ My Lord Bishop excepts against some Witnesses, as *Bates* I hold him faulty, and for Mr. *Kilvert*’s misdemeanours, (though he did provoke my Lord) yet he should have forborn. It was not so much to affront my Lord Bishop, as to animate his Witnesses for the King, which the presence of so great a Person might have daunted.

‘ And your Lordships know, that in the Circuit, if a great Man have a Cause at the Bar, he is not to sit on the Bench, his nod or frown, nay his bare Presence, (by way of observation) may do much with inferior Persons. I discommend my Lord for his passion, and commend *Kilvert* for the zealous prosecution of his Cause. I must clear Sir *John Mounson*, and for *Parkinson* disguising of himself in the Habit of a Minister, (true it is, a shift they had to find out what might be;) But the matter was apparent to all, they know he was a counterfeit.

‘ And for *Catlin*’s Testimony, I weigh it not; but I find my Lord tampering with *Smith*, with *Edward Smith*. He must be brought in by Mr. *Mostein*, and at the back door too, and after that he had taken his Oath, was told he had sworn maliciously, and was advised before-hand what to say, and the Bishop chid him, and ask’d why he would be sworn and not acquaint him, and let him know before; and there is many Proofs of my Lord Bishop’s dehorting and terrifying others.

‘ For *Walker*, I shall not Censure him, being not the manner of this Court to Censure, when he is not charged with any particular, but in general.

‘ For *Lunn*, I find him threatning Mr. *Kilvert*, and I find him tampering divers ways, and getting the Writings from the Clerks.

‘ I agree with my Lord *Cottington*, and fine him 1000 Marks. I clear *Mostein*. *Catlin* I leave with a *non liquet*; and do censure *Lunn* to be disabled, (by way of his profession) either to be Register or Proctor any more.

‘ For *Cadwallader Powel* and *Owen*, I agree with my Lord *Cottington*.

‘ And for my Lord Bishop, I censure him 10000*l.* Fine to the King’s Majesty, to be suspended *ab omni officio & beneficio*, during His Majesty’s Pleasure, and likewise to be Imprisoned in the Tower during the King’s Pleasure, (as my Lord *Cottington* said before;) also for to repair the Credit of Sir *John Mounson*, I fine him 1000 Marks to him; and sure, My Lords, his Person doth not diminish, but rather aggravate his faults: for to be faulty in scandalizing his Master, and then suborningly to bolster up his fault, by such gross and unbecoming manner, is worse in him than it had been in another Man.

‘ For as Mr. Attorney well noted, for him that is set to have a care of Souls, to be corrupter of them; for him that is set as a Light
‘ on

‘ on a Hill, to hide the Truth; I call to mind his Greatness, his
‘ Place and his Dignity: but had he lived a private ignorant Man, I
‘ should have gone very deep with him; but he that hath knowledge
‘ to rectifie himself, and hath sat in the place to direct Consciences,
‘ to wrest and wrong Consciences, I must go as deep full in every
‘ thing as my Lord *Cottington*, and I shall here crave your excuse,
‘ and end.

Sir John Bamston his Speech.

‘ I Believe, my Lords, that the Lord Bishop is guilty of three of
‘ the Charges, and I conceive he had a sight of the Writings
‘ from the Council-Chamber.

‘ I find him procuring some to absent, to deter others, and all to
‘ support *Prigeon's* Credit. *Alice Smith* first deposeth, that *Prigeon*
‘ offered her 5 *l.* to prevail with *Elizabeth Hodgson* to lay the Child
‘ to any other Man.

‘ Now my Lord Bishop he must intermeddle to support his Credit,
‘ I disallow of his tampering with *Wetherel*; to wish a Witness to
‘ keep away, or to wish him to say less than he knows, is not justi-
‘ fiable; it not so much concerned him, but it seems he thought it
‘ did, and therefore he must spend 1000 *l.* or 1200 *l.* to make that
‘ good: So Sir *John Mounson* and *Alice Smith* deposeth, *Alice Smith*
‘ is fetched, and carried, and maintained, enriched by the Bishop's
‘ Servants. I find many shifts in my Lord Bishop to effect his de-
‘ sire; it's plain she went away poor, returns rich. *Wetherel* must
‘ be tampered withal, is also plain by several Confessions.

‘ Now to the second Charge, the slander is laid on the Justices:
‘ Sir *John Mounson* sat openly in Court, the Order apparently made,
‘ yet the Bishop strives to suppress it. He useth all the ways he
‘ can, either by fair inticements, or by foul menaces and threats, to
‘ have them in the *Star-Chamber*, &c.

‘ Now, my Lords, however he prevailed not, yet he attempted,
‘ he endeavoured subornation of Perjury: And wisely did Mr. At-
‘ torney to lay the Charge in that manner he did, for undue and un-
‘ just undertaking to suborn Witnesses, it's a Crime equal, (though
‘ he effect it not) yet it's *maleficium condemnationis*, and is censu-
‘ rable.

‘ I find my Lord Bishop of *Lincoln* much to blame in tampering,
‘ perswading, threatning, and directing, of Witnesses. A foul
‘ fault in any, but in him most gross, who hath *Curam Animarum*,
‘ throughout all his Diocess. To destroy Souls is most odious, and
‘ to be severely punished.

‘ To proceed therefore to Censure, I meddle not with *Bates* his
‘ Testimony, but I shall fine *Powel* 300 *l.* I clear *Moslein*: And for
‘ *Lunn* I shall fine him 1000 Marks, and to be disabled also from his
‘ Function. And for my Lord of *Lincoln*, I hold him not fit to have
‘ the cure of Souls, and therefore I do Censure him to be suspended
‘ *tam ab Officio, quam a Beneficio*, and agree for the Fine of 10000 *l.*
‘ and Imprisonment during the King's Pleasure. And for Sir *John*
‘ *Mounson*, I find he hath done nothing but as he ought, and there-
‘ fore

An. 1637. *fore I hold it fit his Credit should be repaired, and to that end I shall agree with my Lord Cottington to give him 1000 Marks.*

Mr. Secretary Windebanke his Speech.

*I*T's needless for me to relate the Business, or to declare the name of the Crime for which this great Person is Censured here in this Court. To free your Lordships from any further trouble, (having seriously considered the matter) I do find not only my Lord Bishop himself, but also his Agents faulty; and therefore for the Fines, Punishments, and Imprisonments both to him and them, I agree in all with my Lord Cottington; and for Sir John Mounson also.

Sir Thomas Germaine's Speech.

I Agree with my Lord Cottington.

The Earl of Lindsey his Speech.

I Do agree with my Lord Cottington in omnibus.

The Earl of Arundel's Speech.

My Lords,

*T*He Cause is great, the Persons eminent, the Prosecutors (as in relation to the King) to be respected. The Person that now is on the Stage to be Censured, one of the grave Bishops of the Realm, one who himself hath born sway, and hath sat in a high Office under two Famous Kings, and now comes to be Censured for undue Proceedings in matter of Justice. He who had the protection of Equity, now hath turned to be a subverter of Right, and an oppressor of the Truth, by concealing her from that she delights in, the Light: unduly menacing, deterring, and debarring Witnesses in a Cause of such a nature, as concerned so great a Person as the greatest we have to do withal (under God) on Earth. I protest I speak it with grief, I am sorry for his Person, much more for his Profession, no Child being more reverent to a Mother, than I am tender of the Church, and of that Coat: But upon such blemishes to forbear Censure, were to allow of them: I do therefore agree with my Lord Cottington in the Fine, Imprisonment, and in all the rest.

The Earl of Manchester's Speech.

My Lords,

I Cannot but admire to see, that a Man of that eminency for Parts and fortune to overshoot himself so far, and to be transported in so ignoble a way, as my Lord Bishop of *Lincoln* hath been, that he would undo his own to maintain the Credit of another Man.

Give me leave a little to unfold the occurrences, that it may appear how this came about, and what occasioned this his so gross an Error.

About the fourth Year of His now Majesties Reign, a Bill was exhibited into this Court against my Lord Bishop of *Lincoln*, the Complaint was about matter of State: Now *Prigeon* was a main Witness for the clearing my Lord from being held guilty of what was thus alledged.

The Bill was slow-paced, and slept from 4 till almost 8 *Car. Regis*, and now a Provocation begets an Information *November* the 8th; and in *February* following the Bastard is born, here is a touch upon *Prigeon's* Credit, this matters not to the Bishop for ought we see; but in *May* following it must be laid on another Father, and one *Boone* is found out for the same purpose, and it must be fathered on him. The Justices of Assize publickly ordered, and set it down, that it is laid upon *Prigeon*, and hereupon he is thought to be disabled of his Testimony for the Bishop of *Lincoln*, if he have occasion to use him, for his clearing in case of those accusations and informations laid against him.

Whereupon this *Prigeon* must be set upright, and made an honest Man, and be rectified, (though it be by indirect and unlawful means;) nay most unconscionable Courses, by wresting the Consciences, and falsifying Oaths for the same.

Now, my Lords, your Lordships well know, that every Mans State, every Mans Credit, his Possessions and Livelihood much depends upon Oaths; for if not upon the Jurors, yet the Witnesses in any Case of Evidence, (be it for matter of Title, or matter of Fact) if they be by sinister Courses, and by Bribes and Threats, (be it for fear or for love) if they be caused to swear against their Consciences, and that tye be taken away whereby they stand obliged before God and Men to give Right to the Truth, no Man is sure of any thing he enjoys, nor can expect to get any thing that is unjustly detained and with-held from him in the Proceeding of any Court whatsoever.

And I find my Lord Bishop much to blame, and indeed no more than an Abetter in many Passages of this Cause tending this way.

There be six faults he is charged withal, and I find him faulty in three great ones.

For his tampering with Witnesses it's plain enough, and I am sorry it breaks out so in all the way as the Cause goes. 1. In withdrawing Witnesses, and absenting them out of the way.

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‘ 2. In preparing, fitting, and disposing Witnesses to his own ends.
 ‘ 3. In deterring them before they are to take Oath, and threatening
 ‘ them after. 4. In sifting out unlawfully (by indirect and sinister
 ‘ Courses) what Evidence and Proof was given, so to be better
 ‘ enabled to have cross Oaths and Proofs against the Evidence that
 ‘ was before. 5. To cause Witnesses to speak less than they know,
 ‘ and to conceal the Truth, or at least to vary from that which they
 ‘ had formerly sworn. 6. Getting the Copies out from the Clerks
 ‘ of the *Star-Chamber*, and keeping them a long time from that place,
 ‘ where they ought to be and reside.

‘ Now for a Man of Art, of a prompt and ingenious Wit, a well-
 ‘ experienc’d Man, who hath been a Judge, and well knew the
 ‘ Inconveniences of these defaults, and the grossness of them, to
 ‘ run into them so violently, and so foul, I cannot but admire, and
 ‘ much pity him.

‘ Nay, he doth take upon him to defend, and to patronize *Catlin*
 ‘ too, although it be absolutely to overthrow and undo himself.
 ‘ But as it is said, *Nemo Læditur nisi a seipso*, if his Lordship had
 ‘ not been over-busie for to do those Men good, he had never done
 ‘ himself this harm.

‘ Now for *Kilvert*’s affront to him, I must needs say it may seem
 ‘ over-much in the place where it was done, being in the chief place
 ‘ of the Diocess, and to his own Person: But being it was in such
 ‘ a Cause, where Witnesses were to be heard and examined for the
 ‘ King, and my Lord being a great Man in that place, I pass it by, as
 ‘ his zeal and earnestness in prosecution of the Cause, which might
 ‘ else have suffered, had he not used the better courage, and put the
 ‘ better face upon it.

‘ For the getting the Writings from the Council-Chamber it’s
 ‘ plain enough, and they were absent long enough, and whether
 ‘ he had used or perused them it matters not; surely he would not
 ‘ have them gotten from their due station, and place of abode, on-
 ‘ ly to lie by him, but that he would make use of them. And I
 ‘ must needs commend Sir *William Beecher*’s discretion and ingenuity
 ‘ for his courage in that Particular.

‘ Your Lordships have heard already by the two Lord-Chief-Ju-
 ‘ stices, what the nature of these Crimes are, (though it be not
 ‘ subornation of Perjury) yet it is manifest injury to the witnessing
 ‘ of a Truth; and I suppose both they that do prevail, and they that
 ‘ are over-ruled and won to such dishonest Courses, are much fault-
 ‘ ty; and therefore I shall agree with my Lord *Cottington* for
 ‘ the Fine upon the two Servants of my Lord Bishop, *Owen* and
 ‘ *Powel*.

‘ And also I fine *Lunn* in 1000 Marks; I clear *Moslein*, and I must
 ‘ not let *Catlin* escape, (if I can legally do it) but he hath better
 ‘ fortune than the rest, though I think not a whit less culpable.

‘ And for my Lord Bishop, I must, for his Fine, Imprisonment,
 ‘ and suspension from his Dignities, Offices, and Benefices, agree
 ‘ with my Lord *Cottington*, and so in all the rest.

The Lord Treasurer his Speech.

My Lords,

‘ **T**His Cause hath held a great time, your Lordships have had
‘ much patience and great attention, and applied your selves
‘ to give ear to the defences that have been made therein, which
‘ have been very well performed by the Counsel on my Lord Bi-
‘ shop’s behalf.

‘ The Cause is great, a great Man that is this day sentenced, and
‘ in a matter of very high nature, for me (my Lords) to run over
‘ the several Charges, and to explain how and wherein I find my
‘ Lord Bishop and his Agents culpable, and very well deserving the
‘ Censure of this Court for their Crimes, it were bootless, nay al-
‘ together needles to insist upon the tampering with *Alice Smith*
‘ and *Wetherel*, with the undue Practices of *Lunn*, *Owen* and *Powel*,
‘ these things have been copiously set out before, and for me to re-
‘ peat, or to make any relation of my observations in the occur-
‘ rences and passages of the Cause, it were but *Actum agere*.

‘ The business falls out very unhappily, and all the way carries
‘ with it a relish. My Lord Bishop’s encouraging and setting on
‘ the several Agents, that were used for the clearing and justifying
‘ *Prigeon*’s reputation; so that in the prosecution of the matter,
‘ probable Surmises come to be violent and forcible Instigations;
‘ and whereas my Lord Bishop strives to suppress a fault which is
‘ like to redound to *Prigeon*’s disesteem; my Lord utterly over-
‘ throws his own Credit, and labouring to take a stain out of ano-
‘ ther’s Face, opens several Scars and Ulcers in his own.

‘ My Lord Bishop might better have let the Truth have been bolt-
‘ ed out, than so smother it, as to injure his own reputation, and
‘ cause himself to undergo far heavier and fouler aspersions, than
‘ the Crimes in his Witnesses could ever have brought upon them or
‘ him.

‘ I much pity him, and I am heartily sorry that he was so over-
‘ led with desire, as so hotly to pursue a thing that might with a
‘ great deal of more discretion have been let alone.

‘ And truly I conceive it is now apparent to him, and he himself
‘ is sorry for his own intemperate prosecutions; and I hold no Cen-
‘ sure can be so heavy to him, as that your Lordships should hold
‘ him Censurable, and that he should now incur the dislike and con-
‘ demnation of this Court, wherein he hath sate as eminent in
‘ Place and Dignity, as the rest that now are to pass Sentence upon
‘ him.

‘ What Censure therefore my Lord *Cottington* before me hath gi-
‘ ven, both for *Lunn*, *Owen*, and *Powel*, both in number, rate and
‘ weight I agree unto; and so I do also for the Fine upon my Lord
‘ Bishop of *Lincoln*, his Imprisonment during the King’s Pleasure,
‘ and the rest.

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The Lord Arch-Bishop of Canterbury his Speech.

‘ S Orry I am (my Lords) that such a Man as my Lord Bishop
 ‘ of *Lincoln* for profession; and sorry that he, being so wise,
 ‘ so discreet and understanding a Man every way, should come to
 ‘ stand culpable of such faults as should deserve the Censure of this
 ‘ Court, and in this nature, that it should fall out that by being
 ‘ over-active and over-doing Busineses of other Mens, to do his
 ‘ own, nay even thereby also to undo himself.

‘ We have Adversaries too too many amongst our selves, but this
 ‘ days work opens a way for the *Romanists* to take advantage by it,
 ‘ to see so eminent a Person as a Bishop, and so eminent a Bishop as
 ‘ he, to become thus censurable in a thing of so high a nature in
 ‘ this high Court, it opens way I say to them of rejoycing, which
 ‘ I would to God had not been at all, or at least not by him.

‘ When I look upon and consider his excellent Parts, both of Na-
 ‘ ture, and atchieved unto by Study and Art; when I think upon
 ‘ his Wisdom, Learning, agility of Memory, and the experience
 ‘ that accompanies him with all those endowments, it puts me to
 ‘ stand; that after he had been overtaken in one error in the first
 ‘ Cause, he should not have recalled himself, and made a stand,
 ‘ but that he hath now run into a far worse, and more desperate a
 ‘ one in this Cause, by obnoxious and criminal ways, even to a
 ‘ very precipitation and downfal of himself and his Credit. What
 ‘ though there was some question made, and some Proofs on foot,
 ‘ whereby his Loyalty to the King his Master seemed to be in di-
 ‘ spute, and his discretion might have some ways come to tryal in
 ‘ matter of words, discovering his affection in some matter of State?
 ‘ must he seek unlawful means to procure his Actions and Words to
 ‘ be lawful, and leave the course of a good Conscience to bolster up
 ‘ a fancy of innocency in another Man, and make himself plainly
 ‘ faulty, for to make another Man seem free from shame? I could
 ‘ wish heartily from my heart (however this Cause be, let it be as
 ‘ it is) that his deportment in passion had been like to that of St.
 ‘ *Sicelia*. I read it in a very good Author, and it is not impertinent,
 ‘ nor unworthy whatsoever patience; when a great stir there was,
 ‘ and all the Stream and Current run quite against her to bear her
 ‘ down in a most furious and violent manner, she mildly in the heat
 ‘ of these Storms, and when those Billows seem’d to overwhelm
 ‘ her, and hide her from all hopes of being admitted hearing her to
 ‘ plead her innocency much less to gain success to her desires, it being
 ‘ told her there were many Witnesses against her, but none that did,
 ‘ or would be, or seem to appear for her, or in her behalf, She used
 ‘ the saying of holy *Job*, *Testis meus est in Caelis*, my Witness is a-
 ‘ bove: and so it fell out, for (as the Story saith) when the mat-
 ‘ ter came to be scanned, the Witnesses that were against her, (by
 ‘ what means, or from whence, or how, I know not) but they
 ‘ were so daunted and struck with such an amazement, that it was
 ‘ their general Vote, *Nos nihil habemus contra Ciceliam*. I have it
 ‘ in St. *Augustine*, a Father of the Church, whose Authority there
 ‘ is

‘ is no doubt of, (he being held learned amongst the best of that
‘ time) *lib. i. contra hæreticum donatum*. It had been better with
‘ my Lord Bishop if he had had such a Cause: I am sure if the
‘ circumstances of his behaviour had been more temperate and
‘ mixt with more patience, the event could not have been so un-
‘ lucky, and his Censure so sharp, as it is now like to be.

‘ I may be bold to say it, my Lords, for it’s no untruth; I have
‘ been five several times upon my knees to the King my Master in
‘ his behalf, I delivered for him several Petitions my self into the
‘ King’s own Hand, and I then did that (which had I known what
‘ now I do) I should not have done. I sent him under my own
‘ Hand the King’s Answer upon every Petition. And after all those
‘ five several Services, I must tell you, my Lords, I was but courfly
‘ dealt withal, nay very ill requited; yet was I overcome to move
‘ again at *Christmas* last, and I have it under his own Hand, or (if
‘ his Secretary writ the Letter) his own Hand and Name is un-
‘ dercribed, that he had better and more hopes by my once moving
‘ the King, than he had formerly had, by the solicitation and means
‘ of all the friends he had at Court.

‘ And no longer ago than at *Christmas* last I moved the King my
‘ Master again in his behalf; and then (had he solicited that which
‘ was intended for his good, and prosecuted the same with submis-
‘ sion) it had in all likelyhood gone better with him than he could
‘ have expected, nay I think, as the case stood, better than he then
‘ desired.

‘ But a cross Business came just in the way at the very time, (of
‘ which your Lordships, or the most part of you, I am sure, are
‘ privy to) and had not I then interposed my self, (the King being
‘ then so exasperated against him) he had safn. But to let pass my
‘ desires, and the earnestness I used, and the tenderness I had, lest
‘ my publick aspersions should have been opened, and such as could
‘ not have been wiped away, but needs must have left a stain to my
‘ Coat.

‘ I must needs say thus much for His Majesty, he was very inclina-
‘ ble to have had a fair reconcilment, as may appear by His often
‘ asking *what Lincoln did, doth he seek to repair my Credit? Hath he
‘ any shew of Sorrowfulness for his fault?* And, my Lords, I may safe-
‘ ly say (because I truly speak it) who ever penned his Petitions
‘ (howsoever they seemed to be his Friends, or whoever advised
‘ him to let them pass in that form) they did him (though que-
‘ stionless he is able to Pen them himself) an injury, yet if he did
‘ it by advice they were not therein his Friends, for in them all
‘ there is not one word tending to submission and confession, or so
‘ much as an acknowledgement of a fault, whereby any shew of
‘ Recantation in that nature might be made to his Majesty, as both
‘ in duty he ought, and in wisdom might have made proffer of, and
‘ with more safety and assurance have performed, insomuch as that
‘ by his stiff and stubborn behaviour, there was no way but to have
‘ the business fully ript up, heard, and decided.

‘ Yet there were not wanting divers ill disposed persons, who
‘ bruited it forth, and very boldly gave out, that my Lord Bishop
‘ of *Lincoln* had not made any fault, or done or spoken ought, but
‘ that which he could stand unto, and needed not to be ashamed of,
‘ only

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only that he was rich and must be let blood, he might well spare it, and the King wanted 10000 or 12000*l.* and so he should have little said to him, if it was once condescended unto, and either given by him, or gotten from him. But howsoever these Reports go, the King is just as he is honourable; and though he was inclined to mercy (for so the Bishop of *Lincoln* had found it, if he had sought it seasonably) yet now you see, there is cause, and just cause of censure, and in a very high nature of desert in him to be sentenced by this Court.

Now for the nature of the cause, the several charges of the proofs, and the defences also that have been by the Lord Bishop's Council, hath fully and amply been opened by the two Lords Chief Justices, and if I should attempt any thing this way, it were but needless labour to my self, and would breed a tedious troublesome to your Lordships, *dictum dicere* would be all, when I had said all.

I leave to meddle with the manner of the proceedings, and must give Mr. Attorney a great and large Commendation, and Mr. Solicitor also, for their wise stating of the Cause, and for their wisdom, wit, temper, and patience in the prosecuting of the same.

The matter is ill, and howsoever it perhaps be not subornation of Perjury, yet to tamper with Witnesses, to threaten, deter, afright, corrupt or to silence, or absent those that are to witness a truth, and to give evidence in a Court of Justice are *ejusdem naturæ*, a very foul Crime and a most odious and detestable Fault, in any man of what condition soever he be: and if these things be suffered and may go unpunishable, no state can stand, and it destroys the interest of *meum & tuum*, and no man is sure of what he holds, or can say whether he hath an estate or no.

It's a point that ruins all right, and is the utter Enemy and Subverter of all Justice, and must needs overthrow any State, where it is not weeded out and prevented by severe *Animadversion* and corrections when it happens to be found out.

First, I destroys *Maximum Mandatum* the great Commandment given by the great Lawgiver, God himself, *Thou shalt not bear false witness*; In the fifth of *Leviticus*, if a man know a truth he is not to conceal it; nay, he is to witness it.

In the 23^d of *Exodus*, a man is not in any case to bear unjust witness, and so in the ninth of *Deuteronomy*, it is in *Criminalibus*, and he that did bear false witness was to suffer *per legem Talionis* that same punishment and loss, which by his false Testimony the other Party had undergone.

In all the time that passes from the Creation of the World until the Law, I do not find that the Holy Ghost once made mention of any, that attempted in this way. I find no shadow nor overture of any such Crime; the corruption of nature had not then grown to the height, and so over-flowed the Banks, as to break out so outrageously, and produce any such ill disposed persons.

Insomuch as I find not any tract, no *vestigium* of the like president for above 3000 years; and the Fathers of the Church upon that place, where it is said, *out of the mouth of two or three Witnesses shall every thing be justified*; they descant upon it, why two or three Witnesses in matters of consequence? Because, say they,

so

‘ so many should not be subject to be tampered withal, being they
‘ might be of several tempers, several conditions, and so the truth
‘ might be had by some of them, if not by all.

13 Caroli.

‘ And for a long time I read of none, but of the devillish practice
‘ and leading piece of impiety set on foot by *Jesabel*, for what cause,
‘ and how prosecuted, you all well know, and what she was, how
‘ she sped, and what end she made is recorded to posterity. Yet
‘ (my Lords) I pray you observe and note with me, how warily the
‘ Holy Ghost goeth about in the setting out of this Fact, and the
‘ passages therein in the 21st verse, as if the Spirit of God was un-
‘ willing to display and discover the heinousness of this Monster
‘ hatched by this vile Woman; as if he would not have it seen, he
‘ shadows it forth in a low stream, that there came in two Sons of
‘ *Belial* and said, &c. As if the Original of this odious practice was
‘ not rooted in humane Nature, but took his birth from Hell, it came
‘ in with two Sons of *Belial* in the Devils name.

1 Kings ca. 21.

‘ Well, afterwards such a Tutor could not want apt Scholars,
‘ and, as Saint *Paul* saith in another case, *when I come to speak of it*
‘ *after the manner of men*, I find it then practised, and that (with a
‘ witness) *it outfaced the God of truth*, though truth it self must not
‘ be trodden under Foot; but this engine fetched from Hell, must
‘ be planted to defeat the Counsels of God Almighty. They found
‘ out and hired false-witnesses against Christ himself, who they
‘ were you know, Mark 14. 55. *The Chief Priests and the Elders,*
‘ *and all the whole Council sought false witness against Jesus to put him*
‘ *to death*; and after Christ *Stephen* had the same measure, *Acts* 6. 11.
‘ *Then they suborned men, who said we have heard him speak blasphemous words against God and against Moses.*

‘ Thus amongst those stiff-necked and hard-hearted *Jews*, the
‘ fault was in use when sin and iniquity grew ripe, and, as the *Prophet*
‘ saith, *Faith and truth could scarce be found amongst mortal men*;
‘ but the subversion and destruction of their City follows, and there
‘ comes in the Government of a Warlike Nation and People, the
‘ *Romans*; amongst whom I find some Laws made against false witnesses, and those very severe ones.

‘ Besides other Laws, in the Law of the twelve Tables there is a
‘ strict Law confirmed against it; and these twelve Tables were not
‘ made by any mean advice or persons, but by the persons of a
‘ powerful Council and the *Decemviri*: That he that was found
‘ faulty in this notorious Crime, he was to be thrown down a steep
‘ high Rock, to have his Bones shivered all to pieces, *e Monte Tarpeio*, or *e Saxo Tarpeio*; afterwards the Law-givers pursued this
‘ fault with banishment and confiscation of Goods, *Confiscatio bonorum fiat & puniatur uti pro Crimine falsi*.

‘ Within those times was a heavy and most severe punishment,
‘ whereby their Posterity also was branded with the fault of them
‘ that went before them.

‘ In the ninety fifth *Council* I find a course set down for the prevention of this Crime, and a punishment set for the Offenders therein.

‘ And in later times *Bartolus* often meets with it, and goes very
‘ precisely and exactly in the case, that if so be it be found in any
‘ man, so much as an overture of tampering with Witnesses, it is Cenfurable

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‘furable; *reus est*, he is guilty, though he effect not his purpose, if he menace, threaten, or deter a Witness. And so, my Lords, shall I do, though he but barely attempt to smother, deter, or hinder any Witness, when he is to give his Testimony; be it by words, looks or actions, promises or threats, it comes much to one in my opinion upon the matter.

‘Now, my Lords, to come unto the Laws of the Church, if we peruse the *Canon* and *Ecclesiastical Law*, there we shall often in every age, have somewhat or other still established against it.

‘In the *Canon Law* the second part of the *Decretals*, if any man shall be a suborner of Witnesses, *Etiam si instigatus aut compulsus a Domino*, if he bring a false testimony (though he be even enforced to it by his Superiour Lord, Governor or his Master) deliver him over to Excommunication, *& sic maneat usque ad exitum vite*, and so he must stand and remain in that state and case during term of life. A grievous thing, and a most heavy burthen, the sentence of Excommunication is to an Offender, though now in these looser times it be slighted and little set by; yet in cases of this nature when the offence is so high and transcendent, and of condition tending to the ruine and condemnation of the Soul, the party at that time, and for that present, even Dallying, Mocking and abusing of God to his very face, to be left void of the Communion of Saints, to be bereaved of the benefit of being a member of Christs Flock, and cut off from that holy body the Church, I think that no man is in a worse and a more miserable estate, and more to be pitied, if he be insensible of it himself.

‘To come to the first Council of *Macedon*, the seventeenth *Canon*, *Si sit ille inter falsos juratores, reus esto*. And what is he guilty of? Of no small matter. Ranked and ranged in the degree and place of a Murtherer *& cum homicidis*.

‘Nay, he is worse than a manlayer, for he that kills a man destroys but one, and that but the body neither, for he cannot any ways infringe the union of his soul that it had with his Maker. But he that goes about to suborn and procure false witnesses; he at one time destroys two Souls, both his own, and the soul of him that he so in that kind intermeddles withal; and unless he be rejoined again by the renewing of Faith and serious and hearty repentance, he sets both their souls and God at odds.

‘Afterwards you find it in the Western parts of *England*, and in *France*, in the seventeenth Council of *Agatha* you have a tamperer with Witnesses adjudged to death (even in the time of *Alexicus*, who was no better than a Barbarous Goth) this Crime was disallowed, made horrid, and held severely to be punished.

‘You may find it in St. *Augustin*, who lived about some 400 years after *Christ*; and indeed he most excellently sets it out in his 28th *Sermon*, *de Nativitate Domini*, either he had it out of that Council, or the Council out of him, being much what both at one time and in one age.

‘Some parts of *Greece* I find did affect and patronize Lying, but *Tully* wittily guirds them for it, saying, they were not wise to countenance folly; yet I find that *Aristotle* in his *Rhetoricks* concerning the Interrogatories to Witnesses, gives admirable rules, and such as (though short) comprehends the most-what of the
‘most

‘ most settled and the wittiest, and the safest ways used now a-days
‘ in that kind, *lib. 2. Rhet.* you may read the ways of preventi-
‘ on herein by him set down.

‘ And to come into our own Country about the year 1224, in
‘ the Reign of King *H. 3* and your Lordships know, that it was a
‘ troublesome time; yet I read that *Stephen Langley*, my Predecessor,
‘ (then Arch-Bishop of *Canterbury*) called a Council to be held at
‘ *Oxford*: the main business was for the reformation of two points;
‘ the one was concerning Marriage, the other concerning *Exheri-*
‘ *dition*, &c. where I find a foul penance inflicted and set out
‘ for him, that shall either bear false witness by himself, or procure
‘ it in another.

‘ For he that is a tamperer this way, he is guilty of no small
‘ Crime doing, doing (at the same time) wrong to three of the
‘ greatest Persons in the World, *viz.* 1. To God. 2. To the King.
‘ 3. To the Innocents.

‘ *First*, He manifestly wrongs God by a notorious contempt, by
‘ a very slighting and vilifying his Omniscience, Omnipresence and
‘ Omnipotency.

‘ He robs God of that which is his very essence, for God is truth,
‘ (and who dare thus out-face God’s truth!) and wittingly deviseth
‘ and practiseth to lay it aside and keep it from the Light; I find
‘ him in very nature to be abhorred and held unfit for humane so-
‘ ciety. *Aristotle* himself in that glimmering he had of Divine
‘ Learning, deciphers such a one, and sets him out by these very
‘ Characters: he must be one *qui pietatem non curat*, a man that
‘ matters not at all for Piety; he must either deny the Deity, or
‘ else think he can escape the reach of the Celestial Powers, such a
‘ one *qui putat se latere Deo*, he is able to skulk on the one side, and
‘ absent himself from the hand of God at his pleasure.

‘ *Secondly*, In the next place, another great Person (unto whom
‘ he doth injury) is the King, whom he plainly cheateth to his
‘ Face, and wrongs in the very Seat of Justice, even forcing his
‘ Officers, the grave and learned Judges, will they nill they, to do
‘ Injustice: for if the Witnesses be suborned and give in false evi-
‘ dence the Jurors cannot come near the truth, and the Judges must
‘ needs Enact, Order, and Sentence what otherwise they neither
‘ would, nor ought to have done.

‘ Last of all, the third Person that is wronged *in conspectu Dei*,
‘ is a person of no small esteem, the Innocent (one many times lit-
‘ tle enough esteemed, God knows, in the eye of the world, but
‘ gracious and great in the sight of God,) and he is also most shame-
‘ fully wronged and abused; nay, perhaps undone by the indirect
‘ practises of those false Witnesses. Sometimes his Person is tra-
‘ duced, his Fame and Credit either stained or else quite taken
‘ away, or so shaken that it’s a shy matter to deal with him: ano-
‘ ther while his Estate, his Birth-right is wrested from him, or
‘ else withdrawn, and for a time with-held from him: one while
‘ his Goods, another while his Lands, a third time himself is at
‘ stake; so Life, Lands, Goods, and All are in danger: well though
‘ such Witnesses be against him, his plea is never a whit the worse
‘ in *Foro Cæli*, his Inheritance is laid up amongst the Saints, *Testi-*
‘ *monium ejus est in Cælis*, doubtless there is a reward for the Righteous,

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‘ verily there is a God that judgeth the Earth, for there is nothing
‘ hid which shall not be revealed.

‘ And thus, my Lords, have I said what I thought fit, though not
‘ so much as the Crimes deserve, for my time being scantied, I have
‘ laid it out (though roughly) yet so as it may easily be seen of
‘ what a vile nature this cankered and pestilent Weed is, and from
‘ whence it had its original, and how odious and detestable it hath
‘ been to all ages, how dangerous the effects be that proceed from
‘ it, and therefore how carefully it ought to be lookt unto, and
‘ suppressd in all Common-wealths.

‘ I shall make my word good in my brevity concerning the last
‘ thing I am to perform, and shall pass over the Sentence very
‘ speedily; to make any repetitions were but *Actum agere* (as my
‘ Lord of *London* said) therefore I will be short.

‘ I find much tampering and striving by my Lord Bishop’s Agents
‘ for to suppress and decline a truth.

‘ I wonder that *Lake* should be sent to the University of *Cam-*
‘ *bridge* presently to take the Degree of Doctor, and that they
‘ would let him pass.

‘ I cannot commend *Moslein* (though otherwise a very civil and
‘ deserving man, and I think very true and trusty to His Master)
‘ yet to be present when a Blank is put up, and an *Affidavit* to be
‘ made to a Blank by his privy and in his presence, this is not
‘ honest; he might have done well to have disallowed the proceed-
‘ ings, or at least not been present, and have countenanced the same.
‘ And *Walter Walker*, though he be a Solliciter, and must and ought
‘ to follow the Causes he undertakes, with as much skill, industry,
‘ and advice as he may, yet he might have been ashamed of this
‘ blank *Affidavit*, and he ought indeed to have suppressd it.

‘ If *Walker* had been a good Servant it had gone better with the
‘ Bishop, than now it is like to do: and if *Walker* do escape senten-
‘ cing it’s more by hap than skill, more by luck than honesty. I
‘ find him to be a very arrant honest man in all the business, and
‘ my Lord Bishop is a very miserable man, thus to defend *Prigeon*’s
‘ good name, with the loss of his own.

‘ *Catlin*, he must have a Living given him, and well he deserved it,
‘ but as yet he had not plaid his part to the full, and therefore stay
‘ your hand (my Lord, saith *Walker*) till the business be done. A
‘ manifest plain proof that there was some use to be made of this
‘ cunning and crafty Fellow, to countenance the business in hand.
‘ And I can say no less, than that I find *Catlin* to be a very lewd
‘ man, a very Incendiary, and truly to be parallel’d with that *Catlin*
‘ of *Rome*, against whom so many learned and eloquent Orations
‘ were writ, by *Cicero* that famous Orator.

‘ For *Lunn*, let him go on in God’s Name, to be put off from the
‘ place and offices that he hath; and for *Powel* I could go deeper
‘ than any before me hath yet done, who prosecutes an unjust act
‘ so long, so oft, and never repents of it.

‘ For *Kilvert*’s affronting of my Lord Bishop in that manner he
‘ did, I must set that, and the Bishop’s offering to be present at the
‘ examination of the Witnesses, both in one distance, and they may
‘ very well the one of them quit the other; and I must commend
‘ *Kilvert*, or any man else that shall go on in the King’s business,
‘ and

and concerning so great a matter; for if he had gone on pining-ly, faintly, and cowardly have put his head in a hole; if he had by my Lords presence, and by the terms he used, gone sheepishly on in his business, the matter might have failed. Some of your Lordships have condemned him for his bold carriage toward a Bishop in his own Diocess, but I cannot, for my Lord and his passions were more to be condemned. A temper would better have befitted him, and indeed he ought not to have given any such occasion, and therefore it may be said, *Etiam si ego dignus sum hac contumelia, indignus tamen qui fecerit*, I pass that by as to be excused, by reason of the weightiness of the matter.

For the gaining of Papers from the Council Table, I find my Lord Bishop had them long enough in his custody, and they were returned unsealed; and I do find that he proceeds to counter-proofs directly, according as he was informed by these Papers, which in my mind shews apparently that he both had them and perused them.

For Sir John Mounson, the King is wounded through his sides, I have known him a long time, and I never knew nor heard any thing of him but good, and therefore do hold one thousand Marks little enough for reparation of his Credit, who did nothing but that which was his duty, and belonged to his place.

Now for my Lord Bishop of *Lincoln*, truly I am heartily sorry to do that which I must do, both by reason he is of my own Coat, and also by reason of the place he hath in former time sustained in this Court amongst your Lordships, and in this Commonwealth, but I must not forbear to do that which my Conscience leads me unto, and less I must not do than for to discharge that as I ought to do.

Wherefore I shall agree with my Lord *Cottington* and the rest that have gone before me in the fine of 10000 *l.* to His Majesty; and likewise for his imprisonment in the *Tower* during the King's pleasure, as also to be suspended from the exercising of his Ecclesiastical Function, *tam a Beneficiis, quam Officiis*, and to be referred over to be proceeded against in the High Commission Court, as the merit of his offence shall deserve.

The Lord Keeper his Speech.

THis Cause, my Lords, is a Cause of great consequence, and it is a very foul matter, though I must needs say the defenses that hath been made in it, hath been very fair by Mr. Recorder, and the Council on my Lord of *Lincoln's* behalf.

Mostein I must acquit, for *Catlin* I came resolved to Censure him for Perjury; but seeing the Court lets him pass, I shall not sentence him, though he is a very notorious Actor, and had a hand in that *Blank Affidavit*, and help'd *Smith*, and countenanced and directed him what to swear, and what to let alone.

All my Lord's actions, (for which he is much to be blamed) are subsequent to that *Affidavit*; I must do my duty, and discharge my Conscience, and shew my love to the common good, (what

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ever my private wishes are) that things had not fallen out thus with my Lord as they do.

I shall divide all into two parts, some things I hold faulty, and some I shall not Censure; I shall not Censure Mr. *Kilvert* for his unmannerliness, though the affront was great to a Man of his Place in the Country, where he was Bishop of the Diocese, and in the chief Seat of his Jurisdiction. Mr. *Kilvert* might have forborn him somewhat in that respect; but the cause being of that high nature, and concerning them it did, he had somewhat the more reason to be the more confident and bolder in the prosecution thereof than ordinary, and for that concerning Sir *William Beecher* I find no proof of it.

I find that *Lunn*, *Tubb*, and *Wetherel*, were tampered withal, but I cannot find my Lord Bishop faulty with them; For *George Walker*, I find him Censurable; and so is my Lord also himself in other matters, as will appear when I shall come at them.

I find by the Proof of two Witnesses, that my Lord confessed himself, that it cost him 1000*l.* or 1200*l.* to bolster up *Prigeon's* Reputation, and to do this he falls into error concerning the Order made by Sir *John Mounson*; that must be suppress, and I know not how so much Money should be expended, but upon such courses as were used with *Smith* and *Catlin*.

Catlin told *Smith* he should be made by it; so that the Order must be to undermine the Witnesses, and get them to vary from what they had formerly sworn before the Justices at the publick Sessions. I know that Men in Cases of this nature do not bluntly promise this or that; but I find *Walker* goes about by Questions at first a-far off, and then comes close to instruct *Smith* what to swear, and Rewards are not behind; neither do I conceive in such Cases, that there are ever two Witnesses to be expected, but as my Lord Chief-Justice of the *Common-Pleas* explained it, *singularis Testis* shall induce me to believe a Truth in some Cases, and it must of necessity, when Circumstances concur with the same.

So that whatsoever Mr. Recorder said, the return of that Order made by the Justices was *coram non Judice*, it matters not with me. The Witnesses knew nothing of the questionableness of the Proceedings, but went on the way their Consciences at that time led them: Now for my Lord Bishop of *Lincoln* to seek to dishearten them, to terrifie them by Threats, and seek otherwise after by Rewards and Promises to subvert, or (at least) to divert the Current of Justice, I know not how to excuse them, but that he is much to blame to give such ill Names and disgraceful Titles to an Order made in Court, as to call it a *Pocket Order*, thereby bringing an *Odium* and defamation upon the Justices, who proceeded as they ought, and in open Court, as appears by Doctor *Farmery*, and by *Ascot*, who had both of them a hand in it, (as I take it) as well as Sir *John Mounson*, and therefore their Credits must be repaired also.

For *Alice Smith*, she was tampered withal by *Owen* and *Powel* to salve up *Prigeon's* Credit; and after that she had taken one Oath before the Justices, then (for the present the Commission to be

13 Caroli.

fat at *Lincoln*) she is taken and withdrawn out of the way, and hath Rewards given her, (as is apparent) either to deny, or alter, and vary from what she had sworn before. She had 5 *l.* offered her to perswade *Elizabeth Hodgson* to lay the Child to another Father; and then afterwards it was given her to perswade her to lay it to the right Father; and yet here is no false Oath, but may be true, as I can instance that a Deposition may be made by a Party that may swear two things that are contrary, and yet the Depositions of both of them may be true.

And yet an Attainder hath been upon the like; now upon an Attainder the punishment is great, he loseth his Freehold, and Goods, all are forfeited to the King, his Houses are to be razed down, Meadows plowed up, and Woods to be felled, and he himself to be imprisoned or banished, his Wife and Children to be turned out of all.

So in another Case, one hath a hold from an Abbot, and a Rent is due, as *Foster* in Fee he holds *jure Rectorie*, and it's sworn he had Common, time out of mind: And if the words *jure Rectorie* be not exprest, all may be true.

Fitz-Herb.
Natura brevium lib. 10.

In this Case of *Alice Smith* it may be questioned what Money was promised, 5 *l.* to what end? to swear that she was moved to get the Child laid to another: Well, afterwards she must swear that it was to lay the Child to the right Father, Mr. *Valentine* and Mr. *Powel* shewed her the Interrogatories, she must swear against the first Order, and Mr. *Valentine* said his Heart trembled at the Questions.

There is much cunning in this way of tampering with a Witness, for my Lord Bishop asks them leading Questions, by which they have Instructions what, and how far to swear.

And *Prigeon* tells *Richardson*, that if he could get the Order altered, he might do the Bishop special Service.

Now it may be, said he, may not a Man meddle, nor question with a Witness? yes, but with certain limitations, for else, if the Witnesses be made and corrupted, the Jurors and Judges both of them may be abused; and if that Witnesses may be led and instructed by Questions, or the like, it comes all to one as Subornation.

A Soliciter may warn Witnesses to come in, he may incite them, and enforce them, and one as well as the other: but for a stranger to labour a Juror or a Witness, is not so allowable. But a Soliciter must not instruct a Witness, nor threaten him, nor carry Letters to him, to induce him this way, or that; yet he may discourse with him, and ask him what he can say to this or that Point, and so he may know whether he be fit to be used in the Cause or no: by which means this Court is freed from the labour of asking many idle questions of the Witnesses to no end, if they can say nothing to them, and so spend good time to no end nor purpose; yet he may not perswade him, or threaten him to say more or less, than he of himself was inclined unto, and was by his Conscience before-hand bound to deliver as truth.

The term in Law is called *Embracery* of a Jury, *Amplexus*, to curry favour, when one hugs them, and houses them in their Arms to procure respect unduly to their own ends; you have it mentioned

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tioned 13 H. 4. § 16. when there is a leading of a Jury 22 H. 6. whereupon it hath been ordered, that in Cases which have any relation to great Persons, who usually are on the Bench, they are upon Tryals to absent themselves, and not to be in presence of the Bar.

And as my Lord Chief-Justice of the Common-Pleas well insisted upon in this Case, the countenance of a great Man, and one that is powerful in the Country to do a poor Witness harm in another way upon any other occasion, when it shall come to his turn, and occasion be offered for him to do it; the very looks I say of such a Man is able to put the Witness off from what he was resolved to speak, and dash him out of countenance, that he will either, for fear that such a Man shall take dislike at him, or for hopes of much favour with him, and to gain his good will, speak sparingly of the matter in hand, as least, if he do not altogether decline another way in his words to that which he in his Conscience knows to be the very truth.

So that in the Point it is plain, that when a Man shall alter the Testimony of a Witness, and cause him to decline from the truth, whether it be by threats, promises, or rewards, it hath ever been much disallowed, and he that attempts the same is censurable, though perhaps he effects it not.

Now, my Lord, to come to the Censure, for I have been somewhat the more bold upon your patience, than I would otherwise, because I would have it appear how far one may, and wherein one may not tamper, or meddle with Witnesses, which thing is the main matter in this Case we have had so long in hand; for had not my Lord Bishop moved this way, I should not have found matter in this Bill to have sentenced him at all.

But for to justifie *Prigeon's* Credit, and to make him stand upright, and to clear the reputation of him, and others, so much Money is spent, and these unjust and undue undertakings have been made by my Lord of *Lincoln's* Servants, and his Agents, to tamper, seduce, and withdraw the Witnesses aside against the Laws of God and Man, and to the very overthrow of my Lord himself.

For *Cadwallader Powel* it's plain all the way what he did, and in what undue courses he sought to suppress the truth; I shall agree with your Lordships for him in his Fine, and do Censure him at 300 l. Fine; and for *Owen*, I shall also agree with you in his Fine of 300 l. also for *Lunn*, I could go deeper, and set him a greater punishment than your Lordships have, but do agree with you in his Fine of 1000 Marks, and to be disabled from being in any Office or Practice hereafter in his Profession, or in any other Court.

Now for my Lord Bishop of *Lincoln*, truly I am heartily sorry for him; but *ex se cadit*, he is the cause of his own overthrow, *Et ruit Roma viribus suis*, no Man hurts him but himself. I think of him as a great Person, and more to be pitied for that he is a Church-man, and in so eminent a Rank as a Bishop, and none of the meanest of that Dignity: and as my Lord of *Canterbury* spoke, that it was the more grief to him to pass Sentence in so deep a manner upon him, by reason he was of the same Coat; so, my Lords, I cannot but be sensible of his precedency to me in that place I

now

now underge by the favour, and at the Pleasure of the King's Majesty, my honoured Master. 13 Caroli.

For a Man of his Wisdom, of that Experience, and having seen the various Changes of Times, and of several Mens Fortunes, lived in that eminency, and so well-literated, to seek his own overthrow, to support and maintain the reputation of another, is a thing not to be so much as dreamed on, or could be once thought upon, that such weakness should ever fasten and take place in a Person so well-guarded and accompanied with Vertues and commendable Qualities, as my Lord Bishop was ever esteemed to have.

And for a Church-man, whose Profession is to support Mens Consciences in the right way, and for to reduce them into it when they shall chance to err, for him to be a seducer of the Conscience, is a fouler and worse stain in him than in another.

But when to that Sacred Calling (the Professors whereof are ever to be had in respect) shall be added another Charge and Care, by the favour of the King, to become a Judge, and a Judge of that great Court of *Chancery*, where Equity and Conscience give the very denomination of the Court; to be advanced to this eminency is a thing of great consequence, and to be admitted to this Place is a sign of great Trust reposed and placed in that Servant by his Master. Now I cannot, my Lords, but be heartily sorry, and very much pity, that a Church-man, and Bishop, and one that hath been a Prelate, and eminently Dignified for the space of this 16 or 17 years at least together, should so grossly be overseen in the countenancing and cherishing such foul Crimes: Nay, a Man that had born the great Seal of *England* before two such great Kings, and been highly graced with so many large Testimonies, and remarkable Favours from them both, to uncase himself of all those, and that at once, and for so small a matter, so little really in it self concerning him, I cannot but wonder how he should fall into such an error, and more pity his misfortunes to see him so much his own Enemy.

But as it hath been observed by you all, he hath overthrown himself: And therefore I must do my duty, and proceed to his Censure also, as I have in the rest; *vincat veritas & fiat justitia.*

I shall agree with my Lord *Cottington* for his Fine to the King in 10000 *l.* and so I do also with my Lord *Cottington* for his Imprisonment in the *Tower* during His Majesties Pleasure.

And withal to be suspended from all his Ecclesiastical Dignities, Offices, and Functions, and in all with my Lord *Cottington*, *ab Officiis & Beneficiis*, and to be referred to the High Commission for the rest.

This Bishop of *Lincoln*, (once a great Minister of State) wrestled through these difficulties and close Imprisonments; was at last set at liberty out of the *Tower*, and called by the King's Writ to sit in the House of Peers, and after that was advanced by the King, and restored to all his Ecclesiastical Dignities and Functions

The

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July 1637.

THe Licenſing of all new Books was at this time in the power of the Arch-biſhop of *Canterbury* and his Subſtitutes and Dependents, who uſed that ſtrictneſs, that nothing could paſs the *Preſs*, without his or their *Approbation*, but the *Authors*, *Printers*, and *Stationers* muſt run a hazard of ruine. But leſt the *Printers* (being thus reſtrained) ſhould fall to the re-printing of old Books of Divinity formerly Licenſed, this Decree was made in the *Star-Chamber*, That no perſon ſhall preſume to print any Book or Pamphlet whatſoever, unleſs the ſame be firſt licenſed, with all the Titles, Epistles, and Prefaces therewith imprinted, by the Lord Arch-biſhop of *Canterbury*, or the Biſhop of *London* for the time being, or by their appointment; and within the limits of either Univerſity by the Chancellor or Vice-Chancellor thereof; upon pain that every Printer ſo offending ſhall for ever thereafter be diſabled to exerciſe the Art of Printing, and ſhall ſuffer ſuch farther puniſhment, as by this Court, or the High Commiſſion, ſhall be thought fitting; that before any Books imported from Forreign Parts ſhall be expoſed to ſale, a true Catalogue thereof ſhall be preſented to the Arch-biſhop of *Canterbury*, or the Biſhop of *London*. And that no *Officers of the Cuſtom* ſhall deliver any Forreign Books out of their Hands and Cuſtody before thoſe Biſhops ſhall have appointed one of their Chaplains, or ſome other Learned Man, with the Maſter and Wardens of the Company of Stationers, or one of them, to be preſent at the opening of the Packs and Fardels, and to view the ſame. And thoſe that diſobey this Injunction, are to be Censured in this, or the High Commiſſion-Court, as the ſeveral Cauſes ſhall require. And if in this Search there happen to be found any *Schiſmatical* or offensive Books, they ſhall be brought to the aforeſaid *Biſhops*, or the *High Commiſſion-Office*, that the Offenders may be puniſhed. That no Perſon whatſoever ſhall imprint in the Parts beyond the Seas, or import from thence, any *English* Books, or whereof the greater part is *English*, whether formerly Printed or not. And that no Books whatſoever ſhall be re-printed, though formerly Licenſed, without a new License firſt obtained, upon pain of like Censure and Punishment. And that if any Perſon whatſoever, that is not an allowed Printer, ſhall preſume to ſet up a Preſs for Printing, or work at any ſuch Preſs, or Set and Compoſe Letters for the ſame, he ſhall be ſet in the *Pillory*, and *Whipt* through the City of *London*.

After the making of this Decree Mr. *Fox* his Acts and Monuments, (called the Book of Martyrs) Biſhop *Jewel's* Works, and ſome parts of Dr. *Willet's*, with others, formerly published by Authority, were denied new Licenſes; as alſo the *Practice of Piety*, which had been re-printed 36 times.

Auguſt 18.
Complaint
that the Bi-
ſhops in Eng-
land kept
Courts in their
own Names,
without a Pa-
tent from the
King.

AT this time the Eccleſiaſtical Courts, exerciſing their Power ſeverely againſt the *Puritans*, fell under the weight of a general envy and diſlike, and were ſpoken againſt by many, as an incroachment upon the King's Prerogative contrary to Law, becauſe they were held in the Biſhops Names, and without a Patent under the Great Seal of *England*. And in regard of divers late Pamphlets pub-

published to that purpose, the King was pleased by Proclamation to declare the Right, and vindicate the Proceedings of the Ecclesiastical Courts and Officers. That the Judges being required to give their Opinions, had certified, that Process may issue out of Ecclesiastical Courts in the Name of the Bishops. That a Patent under the Great Seal is not necessary for the keeping of Ecclesiastical Courts, the enabling of Citations, Examinations, Suspensions, and other Censures of the Church. That it is not necessary that Processes Ecclesiastical, Institutions, or Inductions to Benefices, or correction of Ecclesiastical Offences in those Courts, be in the Kings Name, or under his Seal, or that the Seals of their Office have the Kings Arms. And that the Statute of the first of *Edward* the Sixth, that enacted the contrary, is not now in force. That Bishops, Arch-deacons, and other Ecclesiastical Officers, may keep their Visitations without Commission under the Great Seal of *England*.

13 *Caroli.*

The King, by Proclamation, vindicates the Right of the Bishops in so doing.

The Judges Opinions therein.

IN the Year 1632, the Lord *Weston*, being then High Treasurer of *England*, sent for the Master and Wardens of the Company of *Vintners*, and demanded of them, in the vent and consumption of Wines, one Penny a Quart, which is 4*l.* per Tunn, which they utterly refused, alledging it would be the utter undoing of the retailing *Vintners*.

Whereupon a Decree was made in the *Star-Chamber*, That the Retailers of Wines ought not to sell or dress Victuals in their Houses, which (time out of mind) they were accustomed to do; and this was done without any Information or Bill, or any called to defend or justify their trade or usage of it.

In *Anno* 1634 His Majesty questioned the *Vintners*, and Retailers of Wine, for the breach of the said Decree; but to evade their Censure they yielded to lend His Majesty 6000 Pounds; whereupon His Majesty did, by His Order, give way to the Retailers of Wines to dress and sell Victuals till *December* next following; at which time his Majesty promised to settle it so as he thought fit for him to Sign, that was to have the *Vintners* relying upon that Temporary License, that so His Majesty, by His Declaration, might continue or discontinue their power of dressing Meat as he should find convenient.

But in *Anno* 1635 the Retailers of Wines were again questioned for breach of the former Decree, and the Lord *Cottington* then propounded to them to yield to pay somewhat on their vent of Wines to his Majesty, which the Retailing *Vintners* utterly refused to do.

Again, in *Anno* 1636 many Retailers of Wines were by information in Master Attorney's Name questioned in *Star-Chamber* for breach of the said Decree, and so far proceeded against, as that they were served with Process of that Court to hear Judgment.

But while things were thus depending *Richard Kilvert* repaired to Alderman *Abel*, (the Master of the Company, and a meer stranger to Mr. *Kilvert*) and told him, that His Majesty commanded him to prosecute the *Vintners* in the *Star-Chamber* for selling above the price, and breach of the Decree for the dressing of Meat.

The Company of Vintners Case as to the Payment of 3000*l.* per Annum into the Exchequer, for License to have liberty to dress and sell Victuals in Taverns, and Wines above the Rates proposed.

An. 1637.

In October Anno 1637, at Vintners-Hall London, William Abel Alderman being then Master of that Company, imparted to the Company, That Mr. Richard Kilvert had been lately with him, and acquainted him with the former Passages.

At this Court the Company of Vintners taking their Business into their serious Considerations, and weighing how they might hazard the utter undoing of such as had transgressed the Decree, if they should be brought to a Sentence in Star-Chamber; they submitted to the payment of 40 s. per Tunn, 4 l. being demanded; and so they, (the Company of Vintners) together with the French and Spanish Merchants, contracted by Indenture Quadrupartite with His Majesty, to pay him 40 s. per Tunn on all such Wines as they bought and vented, foreseeing what great hindrance it would be to them, if strangers should come in and search their Cellars, and know the Particulars of what they had bought and sold; the Company therefore, to prevent many Inconveniences, desired rather to Farm the Duty from His Majesty; and His Majesty declaring, that he would not contract with the generality of the Company for the same, but with some particular Members, the Company did desire Alderman Abel, and Edward Kinnaston, Robert Shaw, Ralph Moor, George Hubbart, and Michael Gardiner, &c. Free-men of their Company, to perform the Contract with His Majesty for the same Duty, who took it to Farm at 3000 l. per Ann^y for eight years.

November 22.
1637.
Concerning
the Trades-
men and Arti-
ficers within
three Miles of
the City of
London, not
yet admitted
into the new
Corporation.

Whereas upon the earnest and frequent Complaints of the Inhabitants of the Places, as well within the City of London, exempt from the Freedom thereof, as without the said City, and within three Miles of the same, for the great grievance by them sustained, through the Intrusion of Aliens and Forreigners into these Places; the King, by His Letters Patents under the Great Seal, Dated the second of June, in the twelfth Year of His Majesties Reign, did Incorporate such Tradesmen and Artificers Inhabiting the same Places, as had served Apprenticeships for the space of seven Years into a Body Corporate and Politick; and did erect a settled Government for the more orderly disposing of Tradesmen there for time to come, prohibiting all Persons, after the Feast of All-Saints then next ensuing, to use, or exercise any Trade, Mystery, &c. unless he or they be admitted into the Freedom of the said Corporation: according to which the King did resolve, in all respects, to have proceeded against those Offenders, intending to have excluded them from the Benefit of the said Freedom, and from the Exercise of Trade within the Places aforesaid.

But forasmuch as the King is given to understand, that partly by reason of the Infektion, and out of a mis-understanding of the Kings Intention, People did, for a time, put off their Admission into the said Freedom; nevertheless, when the time limited was expired, Multitudes of People resorted to be Admitted; but coming so thick, the Governor, Wardens, and Assistants of the said Corporation, for fear of Admitting such as were incapable thereof, were enforced to desist; therefore the King doth now declare His Pleasure, That the Governor, Wardens, and Assistants shall, and may proceed

proceed without Delay to admit into the said Freedom all sorts of Tradesmen and Artificers, as well Brewers, Weavers, Brick-makers, as others, &c.

13 *Caroli.*

The Kings Majesty finding of late, that some of his Natural-born Subjects have abused his Majesties Princely Goodness, through the ease which they enjoy under his Gracious and Mild Government, by withdrawing sundry of his Subjects to the Roman Superstition, and to forsake the Church of England; and likewise by resorting to Masses and Service, Celebrated according to the Rites of the Church of Rome, expressly contrary to the Law of this Realm; for prevention whereof, for the time to come, and for preservation of Religion, as it is established in the Church of England, which his Majesty is resolved constantly to maintain; the King therefore hath thought fit to set forth this Declaration of his Royal Will and Pleasure; and doth expressly command all Persons, Clerks and Laicks, that they from henceforth forbear to attempt to withdraw any the Kings Subjects from the Religion that is now professed. And the King doth Declare, That if any of the Roman Party shall, from henceforth, give scandal, by Celebrating or Hearing of any Mass or Masses, that then his Majesty will cause to be put in execution against such Contumacious Persons, those Penalties, which by the Laws are inflicted.

December 20.
1637.
A Proclamation restraining the withdrawing his Majesties Subjects from the Church of England, and giving scandal in resorting to Masses.

The Charge of Sir *William Russel* Knight and Baronet, Treasurer of His Majesties Navy, touching the Monies by him received of the severall Sheriffs here under-named, and by them Levied by vertue of His Majesties Writs Issued out of the High-Court of *Chancery* in the 13th Year of His Majesties Reign; for and towards the setting forth, and furnishing of divers Ships for the defence of this Realm, and paid over by them the said Sheriffs unto the said Sir *William Russel*, by vertue of a special Commission under the Great Seal, Dated the 28th of *December* in the said thirteenth Year of His Majesties Reign, *Annoq; Dom.* 1637. and by Order from the Board to be expended and disbursed in and about the said Service.

December 28.
Concerning Writs issued out for payment of Ship-money.

A Commission to Sir *William Russel* to receive Ship-money upon the Writs issued out *Anno* 1637. to be disbursed.

Imprimis, The said Sir *William Russel* is charged with the Sum of Four Thousand Pounds by him received of the Sheriff of the County of *Berks*, for and towards the setting forth and furnishing of one Ship of 400 Tunns for Service aforesaid. } 4000 l.

Item, With the Sum of Four Thousand Five Hundred Pounds received of the Sheriff of *Buckingham*, towards the setting forth of one Ship of 450 Tunns. } 4500 l.

Item, With the Sum of Three Thousand Pounds received of the Sheriff of *Bedford*, towards the setting forth one Ship of 300 Tunns. } 3000 l.

An. 1637.

Item, With the Sum of Eight Hundred Pounds received of the Major and Sheriffs of *Bristol*, towards the setting forth of one Ship of Fourscore Tunns. } 800 l.

Item, With the Sum of Five Thousand and Five Hundred Pounds received of the Sheriff of *Cornwall*, towards the setting forth of one Ship of 550 Tunns. } 5500 l.

Item, With the Sum of three thousand Five Hundred Pounds received of the Sheriff of *Cambridge*, towards the setting forth of one Ship of 350 Tunns. } 3500 l.

Item, With the Sum of one Thousand and Four Hundred Pounds received of the Sheriffs of *Cumberland* and *Westmorland*, towards the setting forth of one Ship of 100 Tunns. } 1400 l.

Item, With the Sum of Three Thousand Pounds received of the Sheriff of *Chester*, towards the setting forth of one Ship of Three Hundred Tunns. } 3000 l.

Item, With the Sum of Nine Thousand Pounds received of the Sheriff of *Devon*, towards the setting forth of one Ship of Nine Hundred Tunns. } 9000 l.

Item, With the Sum of Three Thousand Five Hundred Pounds received of the Sheriff of *Darby*, towards the setting forth of one Ship of 550 Tunns. } 3500 l.

Item, With the Sum of Five Thousand Pounds received of the Sheriff of *Dorset*, towards the setting forth of one Ship of Four Hundred Tunns. } 5000 l.

Item, With the Sum of Two Thousand Pounds received of the Sheriff of *Duresme*, towards the setting forth of one Ship of Two Hundred Tunns. } 2000 l.

Item, With the Sum of Eight Thousand Pounds received of the Sheriff of *Essex*, towards the setting forth of one Ship of Eight Hundred Tunns. } 8000 l.

Item, With the Sum of Five Thousand Five Hundred Pounds received of the Sheriff of *Gloucester*, towards the setting forth of one Ship of Five Hundred and Fifty Tunns. } 5500 l.

Item, With the Sum of Six Thousand Pounds received of the Sheriff of the County of *Southampton*, towards the setting forth of one Ship of Six Hundred Tunns. } 6000 l.

Item, With the Sum of Three Thousand Five Hundred Pounds received of the Sheriff of *Hereford*, towards the setting forth of one Ship of Three Hundred and Fifty Tunns. } 3500 l.

Item,

Item, With the Sum of Four Thousand Pounds received of the Sheriffs of *Hartford*, towards the setting forth of one Ship of Four Hundred Tunns. } 4000 l.

13 *Caroli.*

Item, With the Sum of Two Thousand Pounds received of the Sheriff of *Huntington*, towards the setting forth of one Ship of Two Hundred Tunns. } 2000 l.

Item, With the Sum of Eight Thousand Pounds received of the Sheriff of *Kent*, and Cinque-Ports in *Kent*, towards the setting forth of one Ship of 800 Tunns. } 8000 l.

Item, With the Sum of Four Thousand Pounds received of the Sheriffs of *Lancaster*, towards the setting forth of one Ship of Four Hundred Tunns. } 4000 l.

Item, With the Sum of Four Thousand Five Hundred Pounds received of the Sheriff of *Leicester*, towards the setting forth of one Ship of 450 Tunns. } 4500 l.

Item, With the Sum of Eight Thousand Pounds received of the Sheriff of *Lincoln*, towards the setting forth of one Ship of Eight Hundred Tunns. } 8000 l.

Item, With the Sum of Five Thousand Pounds received of the Sheriff of *Middlesex*, towards the setting forth of one Ship of Five Hundred Tunns. } 5000 l.

Item, With the Sum of Fifteen Hundred Pounds received of the Sheriff of *Monmouth*, towards the setting forth of one Ship of One Hundred and Fifty Tunns. } 1500 l.

Item, With the Sum of Six Thousand Pounds received of the Sheriff of *Northampton*, towards the setting forth of one Ship of Six Hundred Tunns. } 6000 l.

Item, With the Sum of Three Thousand and Five Hundred Pounds received of the Sheriff of *Nottingham*, towards the setting forth of one Ship of 350 Tunns. } 3500 l.

Item, With the Sum of Two Thousand and One Hundred Pounds received of the Sheriff of *Northumberland*, towards the setting forth of one Ship of 210 Tunns. } 2100 l.

Item, With the Sum of Seven Thousand and Eight Hundred Pounds received of the Sheriff of *Northfolke*, towards the setting forth of one Ship of 780 Tunns. } 7800 l.

Item, With the Sum of Three Thousand and Five Hundred Pounds received of the Sheriff of *Oxford*, towards the setting forth of one Ship of 350 Tunns. } 3500 l.

Item,

An. 1637.

Item, With the Sum of Eight Hundred Pounds received of the Sheriff of *Rutland*, towards the setting forth of one Ship of 80 Tunns. } 800*l.*

Item, With the Sum of Eight Thousand Pounds received of the Sheriff of *Somerset*, towards the setting forth of one Ship of 800 Tunns. } 8000*l.*

Item, With the Sum of Three Thousand and Five Hundred Pounds received of the Sheriff of *Surry*, towards the setting forth of one Ship of 350 Tunns. } 3500*l.*

Item, With the Sum of Five Thousand Pounds received of the Sheriff of *Suffex*, towards the setting forth of one Ship of Five Hundred Tunns. } 5000*l.*

Item, With the Sum of Eight Thousand Pounds received of the Sheriff of *Suffolk*, towards the setting forth of one Ship of Eight Hundred Tunns. } 8000*l.*

Item, With the Sum of Three Thousand Pounds received of the Sheriff of *Stafford*, towards the setting forth of one Ship of Three Hundred Tunns. } 3000*l.*

Item, With the Sum of Four Thousand and Five Hundred Pounds received of the Sheriff of *Salop*, towards the setting forth of one Ship of 450 Tunns. } 4500*l.*

Item, With the Sum of Four Thousand Pounds received of the Sheriff of *Warwick*, towards the setting forth of one Ship of Four Hundred Tunns. } 4000*l.*

Item, With the Sum of Three Thousand and Five Hundred Pounds received of the Sheriff of *Worcester*, towards the setting forth of one Ship of 350 Tunns. } 3500*l.*

Item, With the Sum of Seven Thousand Pounds received of the Sheriff of *Wiltz*, towards the setting forth of one Ship of Seven Hundred Tunns. } 7000*l.*

Item, With the Sum of Twelve Thousand Pounds received of the Sheriff of *York*, towards the setting forth of Two Ships of Six Hundred Tunns a-piece. } 12000*l.*

Item, With the Sum of 448*l.* received of the Sheriff of *Anglesey*, as part of the Sum of Four Thousand Pounds charged upon the Counties of *North-Wales*, towards the setting forth of one Ship of Four Hundred Tunns. } 448*l.*

Item, With the Sum of 575*l.* received of the Sheriff of *Carnarvon*, as part of the Sum of Four Thousand Pounds charged upon the Counties in *North-Wales*, towards the setting forth of one Ship of Four Hundred Tunns. } 575*l.*

Item,

Item, With the Sum of 1122 *l.* received of the Sheriff of *Denbeigh*, as part of the Sum of Four Thousand Pounds charged upon the Counties of *North-Wales*, towards the setting forth of one Ship of Four Hundred Tunns. } 1122 *l.*

13 *Caroli.*

Item, With the Sum of 575 *l.* received of the Sheriff of *Flint*, as part of the Sum of Four Thousand Pounds charged upon the Counties in *North-Wales*, towards the setting forth of one Ship of Four Hundred Tunns. } 575 *l.*

Item, With the Sum of 864 *l.* received of the Sheriff of *Montgomery*, as part of the Sum of Four Thousand Pounds charged upon the Counties in *North-Wales*, towards the setting forth of one Ship of Four Hundred Tunns. } 864 *l.*

Item, With the Sum of 416 *l.* received of the Sheriff of *Merioneth*, as part of the Sum of Four Thousand Pounds charged upon the Counties in *North-Wales*, towards the setting forth of one Ship of Four Hundred Tunns. } 416 *l.*

Item, With the Sum of 933 *l.* received of the Sheriff of *Brecknock*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 933 *l.*

Item, With the Sum of 654 *l.* received of the Sheriff of *Cardigan*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 654 *l.*

Item, With the Sum of 1449 *l.* received of the Sheriff of *Glamorgan*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 1449 *l.*

Item, With the Sum of 790 *l.* received of the Sheriff of *Carmarthen*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 790 *l.*

Item, With the Sum of 683 *l.* 10 *s.* received of the Sheriff of *Pembrock*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 683 *l.* 10 *s.*

Item, With the Sum of 490 *l.* 10 *s.* received of the Sheriff of *Radnor*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 490 *l.* 10 *s.*

And so the Total Sum charged on the said Sir *William Ruffel* Kt. and Baronet, Treasurer of the Navy, amounteth to 196400 *l.*

Whereas

An. 1637.

December 28.

1637.

Touching the
Corporation
of Soap-ma-
kers of London.

Whereas the Kings most Excellent Majesty, for the better prevention and reformation of such Falsities and Deceits, as might be attempted and practised in the making of Soap within the Kingdom, and for the Regulation of that Trade in a just and orderly way, did, by Letters Patents under the Great Seal, Dated the 22d of May last, with the Advice of his Privy-Council, Incorporate Edward Bromfeild, then Lord Mayor of the City of London, and divers other Persons Soap-makers in that City, by the Name of the Governour, Assistants, and Commonalty of the Society of Soapmakers of London; and hath thereby granted to them and their Successors Power and Privilege to make Seizure of all such Soap, as shall be corruptly, or unduly made, with Inhibition to all other Persons whatsoever to use, or exercise that Art, or Mystery of Soap-making, unless they shall be made Free of, and allowed by the said Society.

And his Majesty, by an Indenture of the same Date, made between his Majesty and the said Company, hath provided, that Good and Merchantable Soap, of several sorts, shall be made sufficient for the use and expence of the Kingdom, and by them sold at moderate Prices; some at three-pence half-penny the pound; and the Soap made of Oyl-Olive, &c. at four-pence half-penny the pound. And therefore the King commands all Persons whatsoever, other than such as are or shall be Free of the said Society, that they do not from henceforth presume to use or exercise the Art or Mystery of Soap-making, to make any manner of Soap whatsoever without the allowance of the said Society. And his Majesty doth also prohibit the Importation, from Foreign Parts, of any hard or soft Soap, upon pain of Forfeiture, or if any Pot-Ashes be Imported, that the same be brought only to the Port of London and there to be sold by the Importers to the said Society of Soap-makers of London, and to no other Persons. And to the end also that the Soap made by that Company may not be sold by Retail, or in Gross, at any excessive Prices; his Majesty doth Charge and Command, That the Mayor, Bailiff, or other Chief Officer, with the Assistance of Two Justices of the Peace, in every City, Burrough, or Town, do limit such Rates as they in their Judgments shall think reasonable; Consideration being had, as well of the settled Prices paid to the said Society, as of the Charge of Carriage, and other Casualties. And his Majesty doth Authorize the Governour, Assistants, and Commonalty of the said Society, and their Deputies and Officers, with the Assistance of the Constable, to enter into any Houses, Cellars, Shops, or other Places, and also into any Ships, Barques, or other Vessels, to search for, seize, take and carry away all such Soap, as shall be found to be unduly made, not under the Rule, Government, or Allowance of the said Society.

And whereas his Majesty did heretofore Incorporate divers Persons into one Body-Politick, by the Name of Governour, Assistants, and Fellows of the Society of Soapers of Westminster; which Grant being afterwards strengthened, as well with sundry of his Majesties Proclamations, as the Decrees and Orders of his High

High Court of Star-Chamber, and otherwise; the said Society of Soapers hath since resigned and surrendered into His Majesties hands, who hath Cancelled and Vacated the same, and all Proclamations, Orders, and Decrees, touching the said Society of the Soapers of Westminster that are no longer to be in force, or put in execution. Nevertheless His Majesties Will and Pleasure is, That neither Sir Richard Weston Knight, nor the several Soap-makers of Bristol, Bridgewater, Exeter, Somerset, Dorset, Devon, and Cornwall, nor any of them respectively, shall be restrained or impeached hereby, in the making and venting such sorts and proportions of Soap yearly, as they respectively are allowed to make and sell in the particular Counties and Places, to them respectively Assigned.

13 Carol.

A Dam Lord Viscount Loftus, Lord Chancellor of Ireland, being in the Month of February required by the Lord Deputy to yield up unto him the Great Seal of the Realm of Ireland, he refused to do the same without particular Warrant from the King first obtained, whereupon he was committed to Prison in Dublin-Castle for not obeying the Lord Deputies Commands.

February.
Lord Chancellor of Ireland committed to Prison.

THe Arch-Bishop of Canterbury having, in his Metropolitcal Visitation, given Instructions to proceed against such Ministers as did not read His Majesties Declaration publickly in the Church concerning Lawful Sports on the Lords-day, was imitated by other Bishops in their respective Visitations, who likewise required the Church-wardens upon Oath to represent, whether the Kings Declaration for Sports hath been read and published in the Church by the Minister? whereupon many were questioned if they could not produce a Certificate that they had read the same in the Church; the form of which Certificate was as followeth.

Feb. 9. 1692. A
That the Book
for Sports be
read in Churches,
and
Certificates
that the same
is done.

These are to Certifie, That T. G. Master of Arts, and Curate of Hitchin in Hartfordshire, within the Archdeaconry of Huntington, according to the Injunction at the Visitation there holden, did distinctly and treatably read, upon the 29th of April, being Sunday, at Morning-Prayer, after the reading of the first Lesson appointed for the day, most of the Parishioners being present, the Book Entituled, The Kings Majesties Declaration to His Subjects concerning Lawful Sports to be used.

William Lindall D.D.
Edw. Ratcliffe.

Besides the Church-wardens Hands, &c. was put to the same.

Mr. Laurence Snelling, Minister of the Church of Pauls Cray in the County of Kent, was Articled against in the High Commission, for not reading the said Book; and being called before them in Court, he Pleaded in his own defence the Law of God, and the Law of the Realm, the Authorities of Councils, Fathers, and late Writers of all sorts.

That the Declaration it self appeared not to be His Majesties, though Published in His Name, it being not Enrolled in any Court, nor Published under His Great Seal, as all Proclamations and Briefs

Handwritten note:
The Book he
should have
had his gown
stripped off.

An. 1637.



to be read in Churches are; that there was no Command at all of the Kings, it should be read by any in Churches, much less by Ministers; no punishment threatned, nor prescribed for not reading it, no Authority given to Arch-bishops, Bishops, High-Commissioners, or any other Persons to question, suspend, or punish any Minister for not reading it; and being a meer Civil, not Ecclesiastical Declaration, not enjoined by any Ecclesiastical Canon or Authority, but Temporal only, he pleaded that no Ecclesiastical Judges could take cognizance of it, much less inflict any Ecclesiastical Censure for it, especially in the High Commission, it being no offence within the Statute of 1 Eliz. Ch. 1. or the Kings Commission Ecclesiastical, whereby the High-Commissioners sit, and so not questionable by them.

All which Particulars being put in his Answer, the High Commission-Court (the Lord Arch-bishop of *Canterbury* being then present) ordered the Answer not to be accepted, till matters unfit therein were expunged; which being done, they afterwards proceeded to Censure, as followeth.

A Sentence in the High Commission against Mr. Snelling, for not reading the Book of Sports, &c.

Die Lunæ, viz. nono die Mensis Februarii Anno Domini 1637. coram Commissionariis Regis ad causas Ecclesiasticas, apud Hospitium Advocatorum, &c. Judiciali seden' presentibus Stephano Knight Deputato, & Johanne Greenhil Notario publico.

Officium Domini Laurent' Snelling Clerici Rectoris de Paulscrai in Com' Cant', Dr. Ryves.

THE Cause is to be informed in, and finally Sentenced out of the said Mr. *Snelling's* Answer, and he is to appear this day to hear and receive the final Order and Judgment of the Court; at which day and place the said *Laurence Snelling* being publicly called for, appeared personally, in whose presence the Articles in this Cause exhibited against him, with his Answers made thereunto, were publicly read; and then Mr. Dr. *Ryves*, His Majesties Advocate, pressed and enforced the Proofs against the said Mr. *Snelling*, according as they appeared out of his Answers; and after that the said Mr. *Snelling* was heard what he could say in his own defence; and after a mature and deliberate hearing of this Cause, it appeared to the Court,

That the said Mr. *Snelling* was here charged, for that he being a Minister in Holy Orders of Priesthood, constituted by the Authority of the Church for these twenty years last past and upwards, Rector of *Pauls Cray* aforesaid, for all that time and upwards, was within these four or five years last past made acquainted, that a certain Book Entituled, *The Kings Majesties Declaration for Lawful Recreations after Evening-Prayer on Sundays and Holidays*, was come forth, and commanded by His Majesty to be read by all Ministers in their respective Parish-Churches, and presented to Mr. Dr. *Wood*, Chancellor of *Rochester*, his Ordinary, on the 20th of *November* 1633. for refusing to read and publish the same in his Parish-Church of *Pauls Cray*.

That upon the said Presentment he was by his said Ordinary personally monished to read the same within three weeks following; that

that on the 11th of December 1634 aforesaid, he the said *Laurence Snelling* being again Convented before his said Ordinary, was *primo*, *secundo*, & *tertio*, personally and judicially monished in Court to read and publish the said Book in manner aforesaid, which he refusing, was suspended *ab Officio & Beneficio*, and hath so continued until this present, and doth so still continue unreleased; that on the third of April 1635, the said *Laurence Snelling* being present in Court before his Ordinary, was 1°, 2°, and 3° Judicially admonished to read and publish the said Book for Lawful Recreations as aforesaid, but did again utterly refuse to publish or read the same, and was thereupon then excommunicated by his said Ordinary, and hath so continued ever since, and doth so continue still excommunicated; that within the time articulate the said Mr. *Snelling* hath divers times omitted to read the Letany, and some other parts of Divine Service, and to wear the Surplice: and further, that he hath not bowed his Body, nor made any corporal obeysance at the reading, or hearing read the Blessed Name of our Saviour *Jesus*.

13 Caroli.

All which the Premisses appearing to be true in substance and in effect, out of the said Mr. *Snelling's* Answers, the Court proceeded to the giving of their Sentence in this Cause, and for the present did order, That unless the said Mr. *Snelling* shall conform himself to the aforesaid requisitions of his Ordinary, and read and publish the said Book for *Lawful Recreations*, &c. and do all due obeysance and reverence, at the Blessed Name of our Saviour *Jesus*, betwixt this and the second Court-day of the next Term, he should be *ex nunc*, *prout ex tunc*, deprived of his Rectory of *Pauls-Cray* aforesaid, but pay no Costs of Suit in case he be deprived; and to this end and purpose he the said Mr. *Snelling* being present in Court, was Judicially admonished to read and publish the said Book, and to make Corporal Reverence at the Name of our Saviour *Jesus*, *sub pœna juris*, & *deprivationis*; and to the end that he may safely repair to his Church to practise, and certifie of his Conformity in the Premisses, (in case he shall be willing to conform accordingly) it was by the Court referred to the aforesaid Ordinary Mr. Dr. *Wood* to absolve the said Mr. *Snelling* from the Sentence of Excommunication, under which he now stands, in case he shall come and desire it of his said Ordinary, and take his Oath *de parendo in juri*, & *stando mandatis Ecclesie*, &c. according to the form in this case provided. But Mr. *Snelling* refusing to red the *Book of Sports*, &c. was deprived of his Living, and continued an Excommunicate Person, &c.

The Bishop of Norwich his Certificate concerning the Book of Sports, &c.

TO the 12th Article, that upon Enquiry at my Visitation, whether the Kings Majesties Declaration for Lawful Sports had been Published? I found it had not been done in very many Places of the Diocess; having therefore about 60 Books at hand, I caused them to be proposed to such Persons as I had most doubt of, but

An. 1637.



many of them refused to publish the same, and were suspended for their refusal; yet divers of them presently promised Conformity, and so were absolved; so that now in the whole Diocess (consisting of about 1500 Clergy-men) there are not passing twice fifteen Excommunicated or Suspended; whereof some so stand for Contumacy, in not appearing at the Visitation and Synod, and still refuse to submit, and others for obstinate denying to Publish the Kings Declaration.

At White-Hall the 11th of February, 1637.

Present,

<i>The King's Most Excellent Majesty,</i>	
Lord Arch-bishop of Canterbury,	Earl of Holland,
Lord Keeper,	Lord Cottington,
Lord Treasurer,	Lord Newburgh,
Lord Privy-Seal,	Mr. Treasurer,
Lord Marques of Hamilton,	Mr. Comptroller,
Lord Great Chamberlain,	Mr. Chamberlain,
Earl Marshal,	Mr. Secretary Cook,
Lord Chamberlain,	Mr. Secretary Windebanke.

Touching St.
Gregories
Church.
Feb. 11.

Whereas the Board was now acquainted, that notwithstanding his Majesties Pleasure signified by the Lord Treasurer, and the Lord Cottington, to the Parishioners of St. Gregories, That the Church should be taken down and removed, being a great impediment to the Work now in hand, for the perfecting and fully repairing of the Cathedral Church of St. Paul, the said Parishioners had not as yet done the same, nor taken any order for the doing thereof. It was thereupon resolved and ordered, according to his Majesties express Will and Pleasure, as also now again declared, That the said Church shall be taken down and removed by the last of March next.

And the said Parishioners are hereby straitly required and enjoyned to cause the same to be done and performed accordingly, as they will answer the contrary at their perils; his Majesty expecting a dutiful and effectual account thereof from them by the time before limited.

This Order not being obeyed, produced another Order, following.

The last of *February*, 1637, this Business came again before the Lords of the Council, which produced this further Order.

Touching St.
Gregories
Church.
Feb. 28.

Order to pull
down the
Church of St.
Gregories.

This day two of the Petty Canons of the Cathedral Church of St. Paul, and the Church-Wardens of the Parish of St. Gregories, did, by command from their Lordships, attend the Board, and were heard concerning the Petition formerly presented in the Name of the said Parishioners, wherein, upon pretence of disability to undergo the Charge thereof, they were humble Suitors,

tors, that they might be freed from taking down and removing of the Parish-Church, which by former Orders of the Board they were in his Majesties Name, and according to his express Command, required and directed to do, by the last of March next. Their Lordships finding no cause to vary in any particular from their said former Orders, did now again ratifie and confirm the same, and did require, that as well the Church-Wardens now present, as such others of the chief Parishioners, (unto whom the Lord Treasurer, and the Lord Cottington had already signified his Majesties Pleasure on that behalf) should, by the time limited as aforesaid, cause the said Church to be taken down and removed. And concerning the difficulty by them made, of finding out and procuring a fit place for the erecting of a new Church within the said Parish, and their disability for the present to undergo the charge of building the same; the former (as their Lordships did now well remember,) was already recommended to the Lord Treasurer, and the Lord Cottington, unto whose directions therein their Lordships do now again refer them. And for the latter, in case their disability for the present be such, as that they are unable to erect a new Church; their Lordships leave it to their Election, whether they will build the same, or be assigned to any one or more Parishes in such manner as the Lord Bishop of London, Lord Treasurer, shall think fit and direct, and so remain and continue until a new Church shall be by them erected. And do recommend it to his Lordship, to take effectual order upon such Election by them made as aforesaid, for their accommodation therein accordingly.

13 Caroli.

Information was preferred in *Star-Chamber* by the King's Attorney-General, against *John Lilburne* and *John Warton*, for the unlawful Printing and Publishing of Libellous and Seditious Books, Entituled *News from Ipswich*, &c. they were brought up to the Office, and there refused to take an Oath to answer Interrogatories, saying it was the Oath *ex Officio*, and that no free-born *English* man ought to take it, not being bound by the Law to accuse himself, (whence ever after he was called *Free-born John*) his offence was aggravated, in that he printed these Libellous and Seditious Books, contrary to a Decree in *Star-Chamber*, prohibiting printing without License: which Decree was made this Year in the Month of *July*, and was to this effect.

Feb. 13.
Star-Chamber.

‘ That none shall presume to Print any Book or Pamphlet
‘ whatsoever, unless the same be first Licensed with all the
‘ Titles, Epistles, and Prefaces therewith imprinted, by the Lord
‘ Arch-bishop of *Canterbury*, or the Bishop of *London* for the time
‘ being, or by their appointment; and within the Limits of either
‘ University, by the Chancellor or Vice-Chancellor thereof, upon
‘ pain that every Printer so offending shall for ever thereafter be dis-
‘ abled to exercise the Art of Printing, and shall suffer such further
‘ punishment, as by this Court, or the High-Commission, shall be
‘ thought fitting; that before any Books imported from Forreign
‘ Parts shall be exposed to sale, a true Catalogue thereof shall be
‘ presented to the Arch-bishop of *Canterbury*, or the Bishop of *Lon-*
‘ *don*: And that no Officers of the Custom shall deliver any For-
‘ reign

July 1637.
A Decree of
Star-Chamber
against Print-
ing without
License.

An. 1637

reign Books out of their Hands and Custody, before those Bishops shall have appointed one of their Chaplains, or some other Learned Man, with the Master and Wardens of the Company of Stationers, or one of them, to be present at the opening of the Pack and Fardels, and to view the same. And those that disobey this Injunction, are to be Censured in this or the High-Commission Court, as the several Causes shall require. And if in this Search there happen to be found any schismatical or offensive Books, they shall be brought to the aforesaid Bishops, or the High-Commission Office, that the Offenders may be punished. That no Person whatsoever shall imprint in the Parts beyond the Sea, or Import from thence, any *English* Books, or whereof the greater part is *English*, whether formerly Printed or not. And that no Books whatsoever shall be re-printed, though formerly Licensed, without a new License first obtained, upon pain of like Censure and Punishment. And that if any Person whatsoever that is not an allowed Printer shall presume to set up a Press for Printing, or work at any such Press, or Set and Compose Letters for the same, he shall be set in the Pillory, and whipt through the City of London.

The 13th of February the said Lilburne and Warton were brought to the Bar at the Court of Star-Chamber, and the Court proceeded to Sentence, which you have here in the very words, as they were entred in the Registers Book, written out by Mr. Arthur himself, the Deputy Register, who was an able and friendly Man in his Place.

But before they proceeded to Sentence this ensuing Order was read.

In Camera Stellat' coram Concilio ibidem 9. die Febr. Anno 13 Car' Regis.

John Lilburne
and Warton
brought to
the Bar.

UPON Information this day to this Honourable Court, by Sir John Banks Knight, His Majesties Attorney-General, That John Lilburne and John Warton, who are now at the Bar of this Court, were the 24th of January last ordered to be examined upon Interrogatories touching their unlawful Printing, publishing, and dispersing of Libellous and Seditious Books, contrary to the Decree of this Court, which was verified by Affidavit; and being brought up to the Office to appear and be examined accordingly, the said Lilburne refused to appear, and both of them denied to take an Oath to make answer to Interrogatories, as appears by Certificate of Mr. Goad: It was humbly pray'd that their Appearance may be Recorded, they being now present in Court, and that they may now have their Oaths tendred unto them; which if they shall refuse to take, that then this Court will proceed to a Censure against them for their high Contempt therein, as hath been used in like Cases; which the Court held fit. And hath therefore ordered, That their Appearance shall be Recorded, as is desired. And for that the said Delinquents do now again most contemptuously refuse to take their Oaths now tendred to them in

open

open Court. Their Lordships have further ordered, That the said *Lilburne* and *Warton* shall be remanded to the Prison of the *Fleet*, there to remain close Prisoners until they conform themselves in obedience to take their Oaths, and be examined; and that unless they do take their Oaths, and yield to be examined by *Monday*-night next, their Lordships will, on the last sitting of this Term, proceed to Censure against them for their contempts therein, as is desired.

Hereupon the Court proceeded to Sentence.

In Camera Stellata coram Concilio ibidem 13 die Febr' Anno decimo tertio Car' Regis.

Whereas, upon Information to this Court the ninth of this instant *February*, by Sir *John Banks* Knight, His Majesties Attorney-General, That *John Lilburne* and *John Warton* (then present at the Bar) were the 24th of *January* last ordered to be examined upon Interrogatories touching their unlawful printing, importing, publishing, and dispersing of Libellous and Seditious Books, contrary to the Decree of this Court, which was verified by *Affidavit*; and being brought up to the Office to appear and be examined, the said *Lilburne* refused to appear, and both of them denied to take an Oath to make some answer to Interrogatories, as appeared by the Certificate of Mr. *Goad*, Deputy Clark of this Court: The Court did on that day order, That their Appearances should be Recorded, they being present in Court as aforesaid; And that in respect the said Delinquents did then again contemptuously refuse to take their Oaths tendred to them in open Court, they should be remanded to the Prison of the *Fleet*, there to remain close Prisoners, until they conformed themselves in obedience to take their Oaths and be examined; and that unless they did take their Oaths, and yield to be examined by *Monday*-night then next following, and now last past, their Lordships would on this sitting-day proceed to a Censure against them for their contempts therein. Now this day the said *Lilburne* and *Warton* being again brought to the Bar, His Majesties said Attorney informed this Honourable Court, that they still continued in their former obstinacy, and contemptuously refused to take their Oaths, to make true answer to the Interrogatories, although they had been sent for, and their Oaths assented to be given unto them by Mr. *Goad*, Deputy-Clark of this Court, who now certified the same in Court: And therefore His Majesties said Attorney humbly pleaded on His Majesties behalf, That their Lordships would now proceed to Censure against the said Delinquents, for their great contempts and disobedience therein. Whereupon their Lordships endeavoured, by fair perswasions, to draw them to conformity and obedience, and withal offered, that if they yet would submit and take their Oaths, their Lordships would accept thereof, and not proceed to Censure against them. But such was the insufferable disobedience and contempt of the said Delinquents, that they still persisted in their former obstinacy, and wilfully refused to take their

13 Caroli.

The Decree and Sentence in Star-Chamber against *Jo. Lilburne*, as it is on Record.

An. 1637.

* The Pillory was placed between Westminster-Hall-Gate and the Star-Chamber.

‘ their Oaths. In respect whereof the whole Court did, with an
 ‘ unanimous consent, declare and adjudge the said *Lilburne* and
 ‘ *Warton* guilty of a very high contempt and offence of dangerous
 ‘ consequence and evil example, and worthy to undergo very sharp,
 ‘ severe, and exemplary Censure, which might deter others from
 ‘ the like presumptuous boldness in refusing to take a legal Oath;
 ‘ without which many great and exorbitant offences, to the preju-
 ‘ dice and danger of His Majesty, His Kingdoms, and Loving Sub-
 ‘ jects, might go away undiscovered, and unpunished. And there-
 ‘ fore their Lordships have now ordered, adjudged and decreed,
 ‘ That the said *Lilburne* and *Warton* shall be remanded to the *Fleet*,
 ‘ there to remain until they conform themselves in obedience to
 ‘ the Orders of this Court, and that they shall pay Five Hundred
 ‘ Pounds a-piece for their several Fines to his Majesties use; and
 ‘ before their enlargements out of the *Fleet*, become bound with
 ‘ good Sureties for their good behaviour. And to the end that
 ‘ others may be the more deterred from daring to offend in the like
 ‘ kind hereafter, the Court hath further ordered and decreed, That
 ‘ the said *John Lilburne* shall be whipt through the Streets, from the
 ‘ Prison of the *Fleet* unto the *Pillory*, to be erected at such time, and
 ‘ in such* place as this Court shall hold fit and direct; and that both
 ‘ he and the said *Warton* shall be both of them set in the said *Pillo-*
 ‘ *ry*, and from thence be returned to the *Fleet*, there to remain ac-
 ‘ cording to this Decree.

And the following Year in *Easter-Term*, falling on the 18th of *April*, was this Sentence executed with the utmost rigour on *Lilburne*, who was smartly whipt from the *Fleet* to *Westminster*.

Whilst he was whipt at the Cart, and stood in the *Pillory*, he uttered many bold Speeches against the Tyranny of Bishops, &c. and when his Head was in the hole of the *Pillory*, he scattered sundry Copies of Pamphlets, (said to be seditious) and tossed them among the People, taking them out of his Pocket; whereupon the Court of *Star-Chamber* (then sitting being informed) immediately ordered *Lilburne* to be gagged during the residue of the time he was to stand in the *Pillory*, which was done accordingly; and when he could not speak, he stamped with his Feet, thereby intimating to the Beholders, he would still speak were his Mouth at liberty; and the Court of *Star-Chamber* that day made also this following Order.

April 8. 1638.
John Lilburne
 uttered scan-
 dalous Spee-
 ches in the
 Pillory.

‘ **W** Hereas *John Lilburne*, Prisoner in the *Fleet*, by Sentence in
 ‘ *Star-Chamber*, did this day suffer condign Punishment for
 ‘ his several offences, by whipping at a Cart, and standing in the
 ‘ *Pillory*, and (as their Lordships were this day informed) during
 ‘ the time that his Body was under the said Execution, audaciously
 ‘ and wickedly, not only uttered sundry scandalous and seditious
 ‘ Speeches, but likewise scattered sundry Copies of Seditious Books
 ‘ amongst the People that beheld the said Execution, for which
 ‘ very thing, amongst other offences of like nature, he had been
 ‘ Censured in the said Court by the aforesaid Sentence. It was
 ‘ thereupon ordered by their Lordships, That the said *Lilburne*
 ‘ should be laid alone with Irons on his Hands and Legs in the
 ‘ Wards

Wards of the *Fleet*, where the basest and meanest sort of Prisoners are used to be put, and that the Warden of the *Fleet* take special care to hinder the resort of any Person whatsoever unto him, and particularly that he be not supplied with any Hand, and that he take special notice of all Letters, Writings, and Books brought unto him, and seize and deliver the same unto their Lordships; And take notice from time to time who they be that resort to the said Prison to visit the said *Lilburne*, or to speak with him, and inform the Board. And it was lastly ordered, That hereafter all Persons that shall be produced to receive Corporal Punishment according to Sentence of that Court, or by order of the Board, shall have their Garments searched before they be brought forth, and neither Writing nor other thing suffered to be about them, and their Hands likewise to be bound during the time they are under Punishment, whereof (together with the other Premises) the said Warden of the *Fleet* is hereby required to take notice, and to have special care, that this their Lordships Order be accordingly observed.

And on the said 18th of *April* it was further ordered by the said Court of *Star-Chamber*,

That His Majesties Attorney and Solicitor-General should be hereby prayed and required, to take strict examination of *John Lilburne* Prisoner in the *Fleet*, touching the demeanour and Speeches of him the said *Lilburne* during the time of his whipping and standing in the *Pillory* this day, according to sentence of His Majesties Court of *Star-Chamber*, particularly, whether the said *Lilburne* did at that time utter any Speeches tending to Sedition or to the dishonour of the said Court of *Star-Chamber*, or any Member of the said Court? and whether he did throw about and disperse at the same time any Seditious Pamphlets and Books, either of that sort for which he was formerly Censured, or any other of like nature? What the Speeches were, and who heard them? what the said Books were, and whence and of whom the said *Lilburne* had them? and what other material Circumstances they shall think fit to examine, either the said *Lilburne* upon, or any other Person by whom they shall think good to inform themselves for the better finding out the truth: And thereupon to make Certificate to the Board what they find, together with their opinions.

Lilburne having for some time endured close Imprisonment, lying with double Irons on his Feet and Hands in the Inner-Wards of the Prison, there happened a Fire in the Prison of the *Fleet*, near to the place where he was a Prisoner, which gave a jealousy that *Lilburne*, in his fury and anguish of pain, was desperate, and had set the *Fleet-Prison* on fire, not regarding himself to be burnt with it; whereupon the Inhabitants without the *Fleet*, (the Street then being not five or six yards over from the Prison-door) and the Prisoners within all cried, *Release Lilburne, or we shall all be burnt*; and thereupon they run head-long, and made the Warden remove him out of his Hold, and the Fire was quenched, and he remained

13 *Caroli.*

John Lilburne
to be examined touching
his Speeches
in the *Pillory*,
and dispersing
Libellous
Books,

An. 1637. a Prisoner in a place where he had some more Air. He continued in Prison till *November* the third 1640. when the *first long Parliament* begun, and then he was released.

We beg of the Reader further pardon for a little digression. This very *John Lilburne*, after he had served the Parliament in the War many years, was imprisoned by them for speaking and publishing things against them, as *Usurpers, and Enemies to Magna Charta, &c.* which offended those times; whereupon he was banished the Kingdom on pain of death if he did return: but return he did, in defiance of those then in Power, and was thereupon sent to *Newgate*, and Arraigned at the Sessions-House in the *Old-Bayly* for his Life, and was there publickly acquitted by a Jury of Life and Death, notwithstanding the Law made to banish him; which for Joy occasioned a great Acclamation of the People then present. He writ many Books against those then in Power and Authority, and some particular Members thereof; insomuch as it was said by *Henry Martin* in favour of him, That if there were none living but himself, *John would be against Lilburne, and Lilburne against John.* At last he dyed a *Quaker*, and was buried in the Church-yard near *Bedlam*, 4000 Citizens and others accompanying his Corps to the Grave.

Pardon digression a little more to what followeth.

When the Impeachment of the House of Commons on *John Lilburne's* behalf went up to the House of Peers against those his Judges in *Star-Chamber*, it was thus urged by those that managed the same.

That Imprisonment is a Man buried alive, is made *Corpus immobile Legis*, the immoveable Subject of the Law. There is an end when Life is taken away, but in this no end. *Nondum tibi cedit in gratiam*, to put a Man out of his pain was accounted a Favour by the *Romans*.

Close Imprisonment was never used to the Primitive Christians by any Tyrant; for then that heavy Charge in Scripture, *I was in Prison, and ye visited me not*, might be answered; but a Close Imprisonment may presume a Famishment, and so Death. The *Romans* had four Punishments, *Lapidatio, Combustio, Decollatio, and Strangulatio*, but never famishing to death. This Man might have been so, as it was sworn.

Three years Imprisonment till the Parliament released him, and might otherwise have been for ever.

Whipping was painful and shameful, *Flagellation* for Slaves. In the Eleventh of *Elizabeth*, one *Cartwright* brought a Slave from *Russia*, and would scourge him, for which he was questioned; and it was resolved, That *England* was too pure an Air for Slaves to breath in. And indeed it was often resolved, even in *Star-Chamber*, That no Gentleman was to be whipt for any offence whatsoever; and his whipping was too severe. The Manager further saith,

That *John Lilburne* was a Free Citizen of *London*, descended from an ancient Family in the *North*, a Town in *Northumberland*, still bearing the Name of *Lilburne*, or rather *Le-Isle-borne*, by reason of the Water* that runs about it. The Arms belonging to the Family are three Water-buckets, an ancient bearing of Arms.

* called the Bourne.

Now as to his whipping, observe the distance, from the *Fleet* to *Westminster* is about a Mile, that he had 500 Blows (one swears a great many more) with a terrible Corded-whip with knots upon it. 13 Caroli.

Among the *Romans* no Malefactor had above 40 Stripes, and with three Thongs; and *St. Paul* received but 39 Stripes, which was but 13 Blows. And it is worth the observation, that not long since, at *Orleans* in *France*, a *Priest* was sentenced to be whipt for Fornication with a poor Maid, telling her that *St. Francis* would come and lye with her such a night, at which time he feigned himself to be *St. Francis*, and was taken in Bed with her. The King's Advocates pressed the Judges, that he might receive 14 Blows with a three Corded-whip; but the Judges would not Sentence him to more than 13 Blows, because *Ampliandi sunt favores*; but if our Arithmetick be right, (not to sport with his pain) *Lilburne* had by this Numeration, three times Five Hundred Stripes in 500 Blows. The Manager further urged,

That this Punishment of the *Pillory* was first invented for Mountebanks and Cheats, that having gotten upon Banks and Fourms to abuse the People, were exalted in the same kind to be set upon the *Pillory*, an open shame to the Multitude.

Now *Gagging* is barbarous, and beastly; for Man differs from Beasts both *Ratione* and *Oratione*.

So that to sum up his Sufferings, by Imprisonment he was made a dead Trunk; by whipping, a Rogue; by Pillory, a Cheat; and by *Gagging*, a Beast. They had better have hanged him outright, &c.

Here followeth an Order of the House of Peers made upon *John Lilburne's* Appeal to them *Anno* 1640. against his Censure in *Star-Chamber*, and his Imprisonment, &c. which the Reader is desired to take in good part, although it be a digression in point of time.

Whereas the Cause of *John Lilburne* Gent. came this day to a hearing at the Bar, by his Council, being transmitted from the House of Commons, concerning a Sentence pronounced against him in the *Star-Chamber*, Feb. 17. *Anno* 13 Car. Regis, and after an Examination of the whole Proceedings, and a due consideration of the said Sentence, it is this day adjudged, ordered, and determined by the Lords in Parliament Assembled, That the said Sentence, and all Proceedings thereupon, shall forthwith be for ever totally vacuated, obliterated, and taken off the File in all Courts where they are yet remaining, as illegal, and most unjust, against the liberty of the Subject, and the Law of Land, and *Magna Charta*, and unfit to continue upon Record; and that the said *Lilburne* shall be for ever absolutely freed, and totally discharged from the said Sentence, and all Proceedings thereupon as fully and amply, as though never any such thing had been. And that all *Extreas* and *Process* in the Court of *Exchequer* for levying of any Fine, (if any such be) shall be wholly cancelled and made void, any thing to the contrary in any wise notwithstanding.

John Brown Cler. Parliament.

Whereas

An. 1637.

Mr. Powel's
Sermon refer-
red to be exa-
mined, and to
be certified.
March 4.

Passages in a
Sermon, that
Taxes ought
to be paid, be
they never so
unjust and
cruel.

¶ **W** Hereas *Richard Powel* Clark hath attended this Board in the Custody of a Messenger, at which time the Letter sent by you Sir *Richard Samuel* was read at the Board, as also the Testimonies returned in this Cause; and upon hearing him, we do find, that perceiving some People in the Parish unsatisfied, by reason of the *distress made for the Ship-money*, he took occasion, upon the Text mentioned in the Testament, *viz. Give to Cæsar the things that be Cæsars, and unto God the things which are Gods*, to tell them that Subjects ought to pay the Taxes laid on them by their Kings, *although they were cruel and unjust*, instancing in *Saul*; and that such Kings were sometimes given to a Nation by God in his wrath, for the Peoples sins; and that if we had such a King, we ought notwithstanding to submit unto him; or words to that effect: but blessed be God he hath given us a *Gracious King*, such as no Age can parallel, whom God long continue over us; *shall not we then be obedient unto him?* which words are wholly omitted in all the Testimonies, and do clearly interpret the former Passages, and do justifie him in what he delivered to the People. And the Messenger, who went for the said *Powel*, doth testifie, that sundry of the Parishioners did bear witness of the adding of these last words, which if it prove true, argues very little sincerity in the accusation, and in the Testimonies. Upon consideration therefore of the Premisses, we have thought fit to intreat you Sir *Richard Samuel*, and you Mr. Doctor *Clark*, and Mr. Doctor *Sibthorpe*, or any two of you, to examine the truth hereof, as well by examination of such Witnesses as you shall think fit, as by the Notes of his Sermon; for which purpose we send you back the said Notes sealed up, together with all the other Papers presented unto us. And do pray and require you to certifie to us, how you find the truth of the Case to stand, together with your Opinions of the same, to the end, that if he have been thus vexed and put to charge without just cause, we may think how to give him a due reparation of the same, and from whom the same shall come. And so we bid, &c.

March 11.

¶ **A**T this time News came from *Scotland*, That the King's Proclamation, Dated the 19th of *February*, published at *Striveling* the beginning of *March*, wherein His Majesty declares, That he ordained the Book of Common-Prayer to be compiled for edification of the King's Subjects in *Scotland*, and to maintain the true Religion already professed there.

Archibald the
King's Fool.

And it so happened that on the 11th of the said *March*, that *Archibald*, the King's Fool, said to his Grace the Arch-bishop of *Canterbury*, as he was going to the Council-Table, *Whea's feule now?* doth not your Grace hear the News from *Striveling* about the Liturgy? with other words of reflection; this was presently complained of to the Council, which produced this ensuing Order.

At

At White-Hall the 11th of March, 1637.

Present,

<i>The King's Most Excellent Majesty,</i>	
Lord Arch-bishop of Canterbury,	Earl of Dorset,
Lord Keeper,	Earl of Salisbury,
Lord Treasurer,	Earl of Holland,
Lord Privy-Seal,	Lord Newburgh
Lord Duke of Lenox,	Mr. Treasurer,
Lord Marquess of Hamilton,	Mr. Comptroller,
Earl Marshal,	Mr. Vice Chamberlain,
Lord Chamberlain,	Mr. Secretary Cook,
Earl of Northumberland,	Mr. Secretary Windebanke.

It is this day ordered by His Majesty, with the Advice of the Board, That Archibald Armstrong, the Kings Fool, for certain scandalous words of a high nature, spoken by him against the Lord Arch-Bishop of Canterbury his Grace, and proved to be uttered by him by two Witnesses, shall have his Coat pulled over his head, and be discharged of the Kings Service, and banished the Court; for which the Lord Chamberlain of the Kings Household is prayed and required to give order to be executed. And immediately the same was put in Execution.

Archibald the King's Fool banished the King's Court.

Whereas John Claypoole Gent. was sent for by Warrant for his misdemeanours to His Majesties Service in the *Collection of the Ship Money*: It was this day thought fit and ordered, That Mr. Attorney General shall examine him, and thereupon proceed against him in *Star-Chamber*, as he shall think best and fittest for His Majesties Service; for which purpose the Informations against the said Claypoole are to be sent herewith to His Majesties said Attorney.

Mr. Claypoole to be proceeded against in the *Star-Chamber*.

A Discourse concerning the High-Court of Star-Chamber.

Upon occasion of the Exemplary Punishment of Mr. Prynne, about his *Histrio-Mastix Anno 1633.* and of his losing his Ears the second time *Anno 1637.* it will not be unseasonable to deliver something of the Nature and Prerogative of that Court which inflicted it, viz. the High Court of *Star-Chamber*, being an Abstract of a Treatise written by a Person well acquainted with the Proceedings of the same.

There is little mention made of this Court, either in Reports, or Treatises of the Law, except now and then dispersedly in some one or two Causes, in an Age where it is mentioned rather, as it seemeth, to manifest to Posterity that there was such a Court, than to enlighten the World with the lawful Power, Authority, and Jurisdiction thereof.

Only

An. 1637.

Only Sir *Thomas Smith*, in his *Common-wealth* hath glanced upon it, and Mr. *Lambert*, the ancient Antiquary, treateth of the Power and Jurisdiction of it; and the reason probably why the Learned of the Laws did, in their Reports, forbear to make mention thereof was, because it intrenched in those days, as of late time, too much upon the Common Law of *England*; and the abuse in the exercise of the Jurisdiction of the Court, might induce the Sages of the Law to pass it over in silence, as an Usurpation of *Monarchy* upon the Common Law of *England*, in the prejudice of the liberty of the Subject, granted by the *Great Charter*.

And without peradventure, those good Laws made in *Edw.* the 3^d's time, to preserve the Liberty of the Subject, were chiefly grounded upon the unlimited Power which this Court did then take to it self.

The Reason of
the name of
the Court.

In our Ancient *Year-Books* it is called *Camera Stellata*, not because the Chamber where the Court is kept is adorned with Stars, but because it is the Seat of the *Great Court*, and the Name is given according to the Nature of the Judges thereof; *Denominatio* being a *præstantiori*, and *majus dignum trahit ad se minus*. And it may be so fitly called, because the *Stars* (in the common opinion) have no light, but that which is cast upon them from the Sun by reflection, it being a representative Body; and as King *James* was pleased to say when he sate there in His Royal Person, *Representation must needs cease when the Person is present*.

So in the presence of His Majesty, which is the Sun of Honour and Glory, the shining of those Stars is put out, not having any power to pronounce any Sentence in this Court, (for the Judgment is the Kings only) but by way of advice to deliver their opinions, which His Wisdom alloweth or disalloweth, increaseth or abateth at His Royal Pleasure; which was performed by King *James*, even like unto *Solomon's* Wisdom, in the great Case of the Countess of *Exeter* against Sir *Thomas Lake*, wherein His Majesty sate five continued days in a Chair of State, elevated above the Table, about which his Lords sate, and after a long and patient Hearing, and the Opinions particularly of His Great Council, He pronounced a Sentence more Accurately, Eloquently, Judicially, Grave, and Honourably, more Just, to the Satisfaction of all Hearers, and all the Lovers of Justice, than all the *Records* extant in this Kingdom can declare to have been done by any of His Royal Progenitors.

There is no Man will deny, that in all Monarchies the King is the Fountain of all Justice, to whom is the first Refuge for those that are distressed, and the last to whom Appeals are to be made.

And *Bracton*, Father of our Laws, (who writ in the Reign of King *Henry* the 3^d) doth agree it to be the Law of *England*.

And *Britton*, (who writ in *Edward* the first's time) beginneth his Treatise to the same purpose, and concludeth writing in the Kings Name: *We will that our own Jurisdiction be above all Jurisdictions, in all Cases Real and Personal*. Admitting then the King to be Supreme Judge of all, and fitting in His Throne of Majesty with His Wise Men and Sages, distributing Justice in His Royal Person,

Person, or by His Council hath found himself and them over-charged, and hath therefore committed His Pleas of the Crown to certain Judges, Matters of Common Right to other Justices, and to others the Affairs of His Revenue; all which, before they were distributed to others, were more properly determinable before Himself and His Council.

13 Caroli.

And therefore it is plain, that this Court was not founded by Act of Parliament in Hen. the 7th's time. And it was solemnly adjudged by the Chief-Justices of England, Sir Edward Cooke, and the Lord Hobert, attended by the King's Learned Council, in the Case between the Earl of Northumberland, and Sir Stephen Proctor, published in open Court, that the Statute of 2 Hen. 7. extendeth not any way to this Court: But the Lords Authorized by the Act, may at all times in all places determine of the Matters therein specified, 28 Ass. Pag. 52. *Coram nobis & Concilio*, is resolved to be *Coram Rege in Camera*, which hath been so often affirmed by the Reverend Judge Sir Edward Cooke.

This Court not founded in Henry the 7th's time.

In the Ancient Laws of England we read of three Councils, *Commune Concilium*, *Magnum Concilium*, & *Privatum Concilium*.

For the first. In all our Writs founded upon any Ancient Statute-Law, the Writ beginneth, *Cum per Commune Concilium Regis nostri provisum*; by which it plainly appeareth, that *Commune Concilium* is the Assembly of the Lords Spiritual and Temporal, and the Commons in Parliament.

And that there is *Magnum Concilium Angliæ*, it appears by the Statutes 32 E. 3. Cap. 18. That false Informers shall be brought before the Chancellor, Treasurer, and Great Council, to find Sureties to endure *pœnam talionis*, if their Suggestions were false. And all the Statutes made after that Act of 37. as well of Richard the second of Complaints before the Council, as of 13 H. 4. Cap. 7. for certifying Riots to the King and His Council, is intended His Great Council, which is the Court of Star-Chamber, afterwards by express Name called *the Kings Council in the Star-Chamber*, 19 H. 7. Cap. 18. In the Stat. 33, H. 8. Cap. 1. For false Tokens. 4, & 5 of Philip and Mary, for secret contracting with young Maidens, and divers subsequent Acts of Parliament.

This Court is *Magnum Concilium Angliæ*.

The third, which is *Privatum Concilium*, or the Council of State, mentioned in the Acts of Eliz. 1. It hath been questioned, whether it were all one with the Great Council? Surely there is none of the *Privy-Council* but is also of the *Great Council*; but perhaps some may be of the *Great Council*, which are not of the *Privy-Council*.

It was a glorious sight upon a Star-day, when the Knights of the Garter appear with the Stars on their Garments, and the Judges in their Scarlet; and in that posture they have sate sometimes from nine in the morning till five in the afternoon, before every one had done speaking their minds in the Cause that was before them.

And it was usual for those that came to be Auditors at the Sentence given in weighty Causes, to be there by three in the morning to get convenient places and standing.

The Warden of the Fleet or his Deputy (then by name Mr. Ingram)

An. 1637.

gram) in those days was constantly attending in Court to receive their Lordships commands, as there was occasion.

For the Dignity of this Court I find it's said, that since the great *Roman Senate*, so famous to all Ages, as that they were called *pro fure miraculum Orbis*, there hath no Court come so near them in State, Honour and Judicature; the Judges of this Court being surely, in Honour, State, and Learning, for Understanding, Justice, Piety, and Mercy, equal, and in many of them exceeding the *Roman Senate*, by so much as Christian Knowledge exceedeth Humane Learning.

Nor hath this Court at any time wanted a *Cicero* or *Hortensius*, to make a defence for such as are there accused; nor is there any *Bar* of Pleading which affordeth so large a scope to exercise a good Orator, the usual Subject being the *Defence of Honour and Honesty*. But Chancellor *Elsmore* affecting Matter rather than Words, tyed the same to *Laconical* brevity; an Honour to a Court of Justice, to be sway'd rather by ponderous Reasons, than fluent and deceitful Speech.

It is not the least Honour and Dignity to this Court, that the Sentences and Judgments of the same are not the opinion of any private person, but the Judgment of many Noble, Wise, and Learned Men conjoyned together; so that it is a Topick Rule for assurance of Truth.

Another manifestation of the Dignity of it is, That the Proceedings are *tam lento pede*, without precipitation, but giving time to the Defendant to defend or excuse himself, both in producing Testimony, and in making defence at the Bar. And that it taketh hold in Judgment only of direct Proofs, speaking Circumstances, or more than probable Presumptions, and these not single but double; which causeth the Judgment thereof to be esteemed worthily, like the Laws of the *Medes* and *Persians*, irrevocable. Besides the Reasons of the Sentence being succinctly collected and knit together, and sagely delivered, by grave, learned and notable Personages, whose very Countenances add weight to their words, and who tie themselves to Certainty, and not to conjectural Proofs.

The Lord Chancellor or Keeper (for their Places by Act of Parliament are all one) have divers Priviledges of Sovereignty belonging to them, as the Supreme Judge there, which surely doth belong in his absence to him, who holdeth the Supreme Place in that Council.

There is no doubt, but the Lord Chancellor or Lord Keeper of the Great Seal is the Supreme Director of this High Court: For whereas any other Lord of the Presence speaketh not in the Court, unless his Head be uncovered, the Lord Chancellor or Lord Keeper speaketh with his Head covered, as a Person to whom all the rest owe a kind of Respect, or Reverence. And all Dukes and Marquesses, Earls, Barons, and Council of State in the Kingdom, attend the Hour and Occasion of this great Lord's going to sit in this High Court: And at his own discretion he commandeth the Chief-Justice, or any other Judge, to sit there at his pleasure.

Besides,

very absurd for
any Human Laws
to be Irrevocable
see Esther 6:3
the end

Besides, this great Lord is the Mouth of the Court, to give Rule or Order, and hath a great Prerogative in that sense, above all other Courts at *Westminster*: For in other Courts, if the Opinions be equally divided, two one way, and two another way, there is no Judgment entred: But in this Court, if the Presence be equally divided, the Lord *Chancellor*, or the Lord *Keepers* Voice, swayeth it one way or other.

13 Caroli.

It seemeth to be an Imitation of the High Court of Parliament; for there, in equality of Voices, the Speaker's Voice is predominant. If the Lord *Chancellor* or Lord *Keeper* condemn or Fine the Defendant or Plaintiff, then hath it ever been undoubted; for that in things indifferent the best for the King's profit is to be taken but where his Voice in equality acquitteth, yet the preheminance of his Judgment, weigheth down the King's Profit, and the Person shall stand acquitted. For so Sir *Stephen Proctor* was acquitted by the Voice of Chancellor *Elsmore*; and so it was resolved by the Judges upon Reference made to them, and their Opinions, after deliberate hearing, and view of former Presidents, was published in open Court.

This Court for the most part is replenished with Dukes, Marquisses, Earls, Barons, also with Reverend Arch-Bishops and Prelates, grave Councillors of State, learned Judges, such a Composition for Justice, Religion, and Government, as may be well and truly said, (whilst so great a Presence kept within their Bounds) *Mercy and Truth were met together.*

Their number in the Reign of *Hen. 7.* and *H. 8.* have been near 40 at one time, and 30 in the Reign of *Eliz.* oft-times; but since much lessened. In King *Charles* His time there hath been 24 and 26 at a time, as in the Cases of Mr. *Chambers*, Sir *James Bagg*, the Bishop of *Lincoln*, and others.

Arch-Bishop *Whitgift* did constantly in this Court maintain the Liberty of the *Free-Charter*, that none ought to be fined but *salvo Contentimento*: he seldom gave any Sentence, but therein did mitigate in something the Acrimony of those that spake before him; but the slavish Punishment of *Whipping*, &c. was not heard to come from the Noble Spirits in those times sitting in that Honourable Presence.

When once this Court began to swell big, and was delighted with Blood, which sprung out of the Ears and Shoulders of the Punished, and nothing would satisfy the revenge of some Clergy-men but *cropt Ears, slit Noses, branded Faces, whipt Backs, gag'd Mouths*, and withal to be thrown into Dungeons, and some to be banished, not only from their Native Country to remote *Islands*, but by Order of that Court to be separated from Wife and Children, who were by their Order not permitted to come near the Prison, where their Husbands lay in misery; Then began the *English* Nation to lay to heart the slavish condition they were like to come unto, if this Court continued in its greatness.

How like the
Apostles! 1st 2nd
S^r
even of them
so far from
themselves, that
they once
came from Heaven
as we see vide
Luke 6. 11. 12. 13.

An. 1637.

Records touching ancient Proceedings in the Court of Star-Chamber, transcribed out of Manuscripts, which remained in that Court.

28 Book of
Assize pag. 51.

C*oram nobis & Concilio*, resolved to be *coram Rege & Concilio in Camera Stellat.*

So Sir Edw. Cook.

In the Regi-
ster Fol. 124.
6 & 191. &
167.Rotul. Patent.
55. Hen. 3.
Membran. 17.

A Writ to appear before the King and His Council.

Bernard Nicolas a Merchant, questioned *coram Rege & Concilio*, for Fortune-telling, to the scandal of one *Arnold Griffin*, and was thereof acquitted.

30 Ed. 3. Ro-
tul. Patent.
pars prima
membran. 15.

Spinks appeared upon process *coram Rege & Concilio*, answered the Bill of one *Radland*, was afterwards acquitted, and *Radland* committed for his false accusation.

Clauf. 40 Ed. 3.
membr. 3. dorso.

Isabel Falconberge appeared before the Council of the King in the Chamber of the Stars, near the receipt, about detaining of Deeds, and was there ordered and sworn to deliver all the Deeds, saving those that concerned her joynt Estate.

Clauf. 6. H. 4.
membr. 22.

The Writ now used in *Star-Chamber* to appear *coram Rege & Concilio*, apud *Westminster* in 15. Pasc. test. 14. Februarii sub pena 400l.

Clauf. 17. H. 6.

In *Camer' Stellat' coram Concilio Regis*, *Danvers* acquitted of the rasure of a Record, and *Brocket* a Clerk of the Exchequer that did it, was fore-judged to have access for writing in any of the King's Courts of Record.

Clauf. 17. H. 6.
membr. 6.

John Foord appeared by Privy-Seal in *Camera Stellat' infra Palatium nostrum Westmonaster'*, before the Lord *Cromwell* then Treasurer, and *Fray* and *Fallam*, two of the Barons of the Exchequer, and was there examined upon Oath; and upon his examination, and the testimony of Witnesses that were then examined, he was for fraudulent Packing of Wool in Broad-Cloths, which he sold to a *Dutchman* that transported them, committed to the *Fleet*, after sent to the *Tower*, and set on the Pillory in *Cornhill*.

Rotul. Patent.
31 Hen. 6.

Ralph Lord Cromwell acquitted of the villanous accusation of suspicion of Treason.

Patent. 8 Ed.
4. pars 3.
membr. 14.

The King and his Council in the *Star-Chamber* Heard and De-creed the matter of title, between the Master and Brethren of the Hospital of *St. Leonard's* in *Yorkshire*, and the Inhabitants in *Yorkshire*, *Cumberland*, *Northumberland*, *Westmoreland*, touching *Peter Corne*.

In

In this Case of the Abbot of St. *Edmonsbury* against *Thurston* and others, the Defendants were punished before the King and His Council in the Court of *Star-Chamber*, for turbulent election of their Aldermen, a Constable, and other Officers.

13 *Caroli.*
Rotul. Patent.
20 Ed. 4. pars
1, or 2.

The Defendant fined five pound for contempt to the King, and to pay the Plaintiffs Costs and Damages, and bound to his good behaviour.

28 Junii
1 Hen. 7.

Bigott fined forty Marks upon Conviction of a Ryot.

28 Novembris
2 Hen. 7.

Debasing of Price of Wool complained of, out of a report beyond Seas; the Offender convented *coram Rege & Concilio*, and fined and ransomed.

43 Book ass.
pl. 38.

The Lord Chancellor to have power to award damage against any Persons, that should make untrue suggestions against another before the King and His Council, or in *Chancery*.

Statutes directing to the
Court 17. R.
2. cap. 6.

Scandalum Magnatum to be punished by advice of the King's Council (which the Books say, is the *Star-Chamber*, and there it hath been frequently done.)

2 R. 2. cap. 11.

Publishers of false News and Tales to be punished by advice of the Council of the King (*non obstante Statuto.*)

12 R. 2. cap.
11.

By the Presidents before-mentioned it doth appear, that the Court of *Star-Chamber* was far more ancient than 3 H. 7. and that it had been and exercised jurisdiction both in Civil and Criminal Causes before the Stat. 3 Hen. 7.

Vide 43. ass. pl.
18. 23, or 13.
E. 4. 9.
2 R. 3. 10.
8 H. 7. 13.

Presidents of later times.

Trin. 1 Eliz. fol. 66.

Sentenced 100 l. for executing the place of High-Sheriff without being Sworn; and 100 l. for making false return of a Writ for Election of Knights of the Shire.

Attorn. vers.
Jeroucker.

Hill. 2 Eliz. fol. 88.

For a Riotous taking away of a Prisoner, taken in the Wars with the *French*.

Breill. vers.
Marten.

Pasc. 2 Eliz. Fol. 93.

Sentenced for Riot, &c. *sub pœna* awarded against them, to be sent to the Fleet, and the Principal Defendants to pay her Servants Fines.

Smith vers.
Savery.

An. 1637.

Vers. Russel &
alios.

Mich. 2 Eliz. fol. 102.

A Commission of Rebellion against the Defendants, directed to one Knight and three Esquires.

Hales vers.
Crouch.

Hill. 3 Eliz. fol. 118.

The Defendant sentenced to stand in the Pillory with Papers, for saying he could ever find an *Oliver* for a *Rowland* among the Queens Council to bear him out in his matters.Woodcock
vers. Barber.

Pasc. 3 Eliz. fol. 124.

An Injunction to give Possession *sub pœna* 200*l.* and that being disobeyed, a Commission to certain Persons to put and continue them in Possession; Commission Recorded in the Court.Lawley &
al.

Pasc. 3 Eliz. fol. 125.

Fined and Committed for disobedience and Contempt of the Queens Process.

Simmons vid.
vers. Parry.

Pasc. 3 Eliz. fol. 129.

The Plaintiff adjudged to stand in the Pillory with Papers, *pro falso Clamore*.Lord Hastings
& al. Comp.
sup. recog.

Mich. 3 Eliz. fol. 129.

For hearing of Mass discharged by the Queen, *propt. Submiss.*Attorn. vers.
Ballives Leich-
feild.

Trin. 8 Eliz. fol. 138.

Ordinances for reformation of disorders in Printing and Selling of Books.

Broughton
vers. Dom.
Howard Vic.
Bindon.

Hill. 4 Eliz. fol. 155.

Mr. Attorney ordered to put in an Information against them, for that they made no inquiry, nor did not punish the great Riots Committed in *Litchfield*.

Pasc. 4 Eliz. fol. 167.

The Lord *Howard* for reviling one of the Plaintiffs Witnesses, and calling him Knave, for that he had been examined against him, fined at 100*l.*

Pasc. 4 Eliz. fol.

It was ordered by the Court that no Process should be awarded upon Bill of perjury for giving evidence to a Jury, whereon Verdict did pass, unless the Justice before whom it was tried were made privy thereto.

Attorn. vers.
Thyn.

Hil. 7 Eliz. fol. 58.

The Cause sentenced *supra Confessionem* of some, and proceed to examine Witnesses against the rest.

Pasc.

13 Caroli.

Pasc. 7 Eliz. fol. 66.

The Arch-Bishop of *Canterbury* and two other Bishops, sworn in Court by the Lord Chief Justice to be of the Queens Privy Council.

Hill. 8 Eliz. fol. 109.

The Defendant dismissed, and Plaintiff fined 10*l.* to ride in a Cart about the City, for that he keeping ill order in his House, disobeyed the Defendant being Constable, when he came with the Watch to apprehend some leud Persons that were then in his House.

Shardg *vers.*
Bever.

Pasc. 9 Eliz. fol. 161.

Upon sight of the Charter of the Bishop of *Duresm*, the two Chief Justices did certifie that the Bishop had *Jura Regalia*, and thereby might hear and determine Riots.

Constable *vers.*
Whittington.

That notwithstanding, this Court (in matters where doubt of relief of Justice is) may hear Riots done within that County Palatine.

Pasc. 11 Eliz. fol. 241.

It was ordered by the Queen, that the Plaintiff should re-examine as many of his Witnesses as he would, and they to be examined by the Clerk of the Court.

Mervin *vers.*
Mervin.

Pasc. Edw. 6. fol. 54.

The Cause to proceed as to the Party, notwithstanding the King's general Pardon.

Reed *vers.*
Lygon.

34 *Eliz. 30 No.*

Deeds damned notwithstanding the Pardon pleaded.

Brereton *vers.*
Starkey.]

Mich. 14 Eliz. fol. 34.

In this Cause after it was fully heard (for Forgery) the Defendants were allowed to examine more Witnesses in their excuse than were there at first, on a second hearing; and then order for Witnesses to be examined, and at last sentence passed against the Defendants.

Pyne *vers.* Hill.

Hill. 35 Eliz. fol. 448.

The Plaintiff died a day or two before the Cause was to be heard, yet the Cause prosecuted by Mr. Attorney at the day without Bill of *Revivor* or *Subp. ad audiend. Judicium*.

Gerrard *vers.*
Gregtham.

The Defendant sentenced in this Court for delaying the execution of a Prisoner Convicted, notwithstanding he was sentenced in the Marches of *Wales* before for the same offence.

Attorney *vers.*
Phillips.

Trin. 36 Eliz. fol. 207.

The Defendant sentenced for beating his Grandfather, to be whipt before the Picture of his Grandfather, he being unable to come to the place where it was to be executed.

Attorney *vers.*
Owen.

Hill.

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Elliot *vers.*
Weblin.*Hill. 13 Jac. fol. 121.*

The Defendant Committed for Arresting the Plaintiff in the County, at such time as he came to serve him with the Process of this Court.

Jo. Smith
Plaintiff.*Hill. 13 Jac. fol. 123.*

Committed for serving Process in the Church after Divine Service ended.

Littleton *vid.*
vers. Lowe.*Pasc. 14 Jac. fol. 145.*

For preferring a Scandalous and untrue Petition to His Majesty, and for a Libel; fined, and to stand in the Pillory, good Behaviour, Damages 200*l.*

Farrier & *al.*
vers. Oldfeild
& *al.**Mich. 14 Jac. fol. 204.*

For a Practice to retract under their hands their former Testimony.

Dominus
Montague *vers.*
Luttesworth
& *al.**Mich. 14 Jac. fol. 210.*

The Attorney-General Sir Francis Bacon, late as a Privy-Councillor in Court.

Gibbs *vers.*
Clark & *al.**Mich. 12 Jac.*

The Defendant sentenced for impounding the Plaintiff as a Beast.

Attorn. Regis
vers. Camber.*Trin. 13 Jac. fol. 55.*

A *Ne exeat Reg.* against the Defendant, for that he swore he would depart the Kingdom rather than he would Marry.

Young *vers.*
Herlackenden
& *al.**Pasc. 5 Jac. fol. 147.*

Divers Defendants charged with Forgery, and publishing thereof, two of them who were the procurers of the Deed to be drawn and written, sentenced to pay a Fine and stand in the Pillory; he that drew the Deed, and he that engrossed it acquitted, and the two Defendants sentenced are ordered to pay them Costs.

Concerning
Ship-money.

THE Case of *Ship-money* was this year brought upon the Stage by Mr. *Hampden's* refusal to pay the Tax laid upon him (living in *Buckinghamshire*, an Inland County) towards the finding of a Ship of so many Tun at Sea: and this business coming to be argued before all the Judges of *England* in the *Exchequer Chamber*, Oliver St. John of *Lincolns Inn Esq;* of Council with Mr. *Hampden* first argued, of which the Author gives the Reader a large Account, himself being then present, and took the Argument in Characters; yet begs the Readers pardon for any Mistakes, for it is not possible for a single Pen to be so circumspect, in mentioning so many Authorities of Books and Records, but that something may be mis-recited or omitted, when his hand with continual writing might sometimes grow feeble, and thereby disfigure him. — Yet to the best of his knowledge he hath not wilfully mis-recited any thing.

Mr.

Mr. St. John's Argument.

May it please your Lordships,

PAsc. 13 Carol' a *Scire fac'* issued to the Sheriff of *Buckingham*, reciting That whereas several sums of money mentioned in a Schedule to that Writ annexed, by a Writ under the Great Seal of *England*, dated 4 *August*, 11. *Car.* Cessed upon several Persons for providing a Ship of War were not paid, and that upon a *Certiorare* dated 9 *Martii*, 13 *Car.* these sums and the several Persons upon whom they were assessed, were certified into the *Chancery*, and from thence by *Mittimus* dated 5 *Maii* last were sent into the *Exchequer*, that Proceſs might be thence issued against these Defaulters.

Thereupon the Sheriff is commanded, *quod scire faceret*, to those several Persons to appear in the *Exchequer*, *Octob. Trin.* 13 *Car.* to shew the cause why they should not pay those sums of money assessed upon them; the Sheriff returned *quod scire fecit*, *John Hampden*, Esq; who was assessed at twenty Shillings, and hath not paid it; Mr. *Hampden* hath appeared and hath demanded Oyer of the *Scire fac'* of the Schedule, the Writ dated 4 *August*, the *Certiorare*, and the *Mittimus* and of their several returns, and hath thereupon demurred in Law.

The Writ dated 4 *August*. 11 *Car.* because it is the ground of the issuing forth of the *Scire fac'* and so by necessary consequence, as that which first occasioned any proceſs against him, it will be the subject from whence will be fetched all that shall be said either for or against my Client; I will endeavour by breaking it into parts, more clearly to present it to your Lordships view.

The thing Commanded is, that this County shall provide a Ship of War of 450 Tun, with 180 Men, Guns, Gunpowder, double Tackling, Victuals, and all other things necessary, and to bring her to *Portsmouth* by the first of *March* following, and from that time to provide her of Victuals, Mariners-wages, and all other necessities for 26 Weeks; for the effecting of this there is power given to assess each Person in the Country *Secund. Stat. & facultates*, and to bring these Sesses by distress, & *quos rebelles invenerint* to imprison their Persons.

My Lords, If the Writ had stayed here, and gone no further, the Command, though full in words, yet had been void in Law, because as yet it appears not for what end this Ship was to be provided 42 *ass. Pl.* a Commission to seize mens goods notoriously suspected of Hellons before Conviction adjudged void, because therefore the Command without Cause shewen, and that sufficient in Law too would be void; in the second place therefore they are there set down to be these, *pro defensione Regni, Tutitione maris, securitate subditor.* & *salva conductione Navium*, both outward and inward, the Sea being infested with Pirates, and more Shipping being daily prepared *ad Regnum Gravandum*, these are the ends.

In the third place the Legality of it, that every man *secundum statum & facultates* should be hereto Sessed, is thus enforced.

First,

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First, From custom and continued use in these words, that the Sea *per gentem anglicanam ab eorum defendi consuevit*; and secondly, this use proved to be from a common ground of equity, in these words, *Onus defensionis quod omnes tangit, per omnes debet supportari*, and the rule of equity backt by the Common-Law in these words, *prout per legem & consuetudinem Regni Angliæ fieri consuevit*: the argument stands thus, all have benefit by defence of the Realm, and therefore by the Law the Charge ought to be born by all.

Thence it is further inforced that every man even by his allegiance is bound to contribute to this charge, the Command being *in fide & legeancia quibus nobis tenemini*: of these parts the Writs consist, which all being put together, in brief declare the scope and end of the issuing forth thereof, to be the defence and safety of the Kingdom; a thing so necessary, that it must needs be legal, for it is too near and too narrow a conceit of the Wisdom and Policy of the Law, to think that whilst the care thereof should be confined only to the preservation of the general members of the body politique, from the wrongs and pressures that might be offered from other to the fellow members, that in the mean time it should leave the whole to the violence and will of Enemies, so that whilst each Subject considered as a part of the whole hath a known and sure estate in Lands and real Property in his Goods, not to be impeached by any whatsoever within the Realm; yet considered all together, and as they make up the *unum Compositum*, they should have in them only *precariam possessionem*, or Tenancy at Will, in regard of Foreigners.

My Lords, This cannot be, for the Law is so careful herein, that even afar off it foresees and prevents all damages in this kind, and that is the reason that an Alien, though a friend, hath not Capacity to purchase any Land within the Realm: and if the Law be so quick-sighted, as that to prevent but possibilities of danger, it keeps such strangers from having any Land within the Realm which desire to come by it peaceably, and for valuable consideration; by this we may easily see the great care it hath to prevent apparent dangers, which usually proceed from open force and violence; which further appears by the greatness of the punishment which the Law inflicts upon Offenders in this kind, which is High-treason, of all other the greatest, 13 *Eliz. Dy.* 298. *Story* conspired beyond Sea with a Foreign State to invade the Realm, and though nothing was attempted yet it is adjudged High-treason: and 21 *E. 3. fol.* 23. and 45 *E. 3. 25.* a man killed a Captain that was going with twenty men at Arms to the King in his Wars, and adjudged to be High-Treason, and so by some opinions in Print, it is to burn or sink any of the King's Ships. By the greatness of the punishment for breach of the negative part of the Law we might understand the peremptoriness and force of the affirmative part; so that, my Lords, in this case the question is not *de Re*, for by the Law the safety of the Realm is to be provided, for *Salus Populi Suprema Lex*; neither is the question *de Personis*, either in respect of the Persons, who are to bear the charge of it, or of the Persons whom the Law hath intrusted with the care and power of this Common defence. For the first, that is, the persons that are to bear this Charge, that in the Writ *quod omnes tangit per omnes debet supportari*, the reasons in

in the Writ are weighty and agreeable to the Rule both of the Common and Civil Law, *Qui sentit commodum sentire debet & onus*; so that I conceive the burthen lies upon all in respect of our *bona natura*, our Lives and Persons be equally as dear to one as to another, in respect of our *bona fortuna*, so *secundum statutum & facultates*, because the greater the state and means of Livelihood, the greater the benefit by the defence; the Law in this Case of defence against the Invasions of living Enemies, being the same with that against the Invasions of our Soil and Ground, by the Inundations and out-rages of the Sea and Fresh Water; for by the Law, as appears by the Commissions of Sewers, as well before the Statute of 28 H. 8. as since, to the repairing of a Bank or Causey, River, or other Sewer, all are chargeable that have thereby *defensionem, commodum, vel salvationem, qualitercunque*; all that have defence must be sessed, the Assesses must be equally distributed, and therefore laid upon every Man within the level *pro rata portionis Tenuræ suæ, seu pro quantitate commune pasturæ vel piscariæ*, the more Land, Common, or Benefit each Man hath, the greater Benefit: And according to the proportion the Asses must be set: So that, my Lords, in the second place the question will not be whether my Client by Law be exempted from the Charge of the defence of the Realm; for with other His Majesties Subjects he ought to bear the common Burthen, and more or less may be thereof laid upon him proportionable to his Estate and Means of Livelihood.

13 Caroli.

Neither thirdly, is there any question to be made but the Law hath intrusted the Person of His Royal Majesty with the care of this Defence: the Defence and Protection which we have in our Bodies, Lands and Goods against any within the Realm, we know it is from him; for all Jurisdiction Legal, both Ecclesiastical and Civil, which defends us in them is wholly in His Majesty; the same it is in case of Forreign Defence, even by the *Jus Gentium*, as appears in the Text by the Peoples desiring that they might be like all Nations, by having one that might judge them, and go out before them, and fight their Battles.

That the King (and that legally) calleth the Kingdom *Regnum nostrum*, and every City and great Town *Civitatem & Villam nostram, quoad proprietatem*, it cannot be, because that it is in the several Land-owners; it must be so therefore principally in this respect, *quoad protectionem & defensionem*: neither hath the Law invested the Crown with this height of Sovereignty, only as an *Honorarium* for the greater Splendor of it; but likewise as a Duty of the Crown, or *pars Ministerii* for the good and safety of the Realm, which in many of the ancient Commissions of the Sewers before the Statute of 23 H. 8. is thus expressed, That the King *ratione Regiæ Dignitatis & per Juramentum est astrictus ad providendum Salvationi Regni circumquaq;* So that both in Honour, and by his Oath, he is bound to provide for the safety of the Realm, and that *circumquaque*.

My Lords, by the Law the King is *Pater familiæ*, who by the Law of *Oeconomicks* is not only to keep peace at home, but to protect his Wife and Children, and whole Families from injuries from abroad.

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It is his vigilance and watchfulness that discovers who are our friends and foes, and that after such discovery first warns us of them, for He only hath power to make War and Peace.

Neither hath the Law only intrusted the care of the defence to His Majesty, but it hath likewise, secondly, put the *Armatam potestatem* and means of defence wholly in His Hands; for when the Enemy is by Him discovered, and declared, it is not in the power of the Subject to order the way and means of defence, either by Sea or by Land, according as they shall think fit; for no Man, without Commission or special License from His Majesty, can set forth any Ships to Sea for that purpose; neither can any Man, without such Commission or License, unless upon sudden coming of Enemies, erect a Fort, Castle or Bulwark, though upon his own ground; neither, but upon some such emergent cause, is it lawful for any Subject, without special Commission, to arm or draw together any Troops or Companies of Souldiers, or to make any general Collections of Money of any of His Majesties Subjects, though with their consent.

Neither in the third place is His Majesty armed only with this Primitive Prerogative Power of *Generalissimo*, and Commander in Chief, that none can advance towards the Enemy until He gives the Signal, nor in other manner than according to His direction; but likewise with all other Powers requisite for the full execution of all things incident to so high a Place, as well in times of eminent danger, as of actual War. The Sheriff of each County, who is but His Majesties Minister, he hath the *posse Comitatus*; and therefore it must needs follow, that the *posse Regni* is in Himself.

My Lords, not to burn day-light longer, it must needs be granted, that in this business of defence the *Suprema potestas* is inherent in His Majesty, as part of His Crown and Kingly Dignity.

So that as the care and provision of the Law of *England* extends in the first place to Forreign Defence, and secondly lays the burthen upon all, and for ought I have to say against it, it maketh the quantity of each Mans Estate the Rule whereby this burthen is to be equally apportioned upon each person; so likewise hath it in the third place made His Majesty the sole Judge of dangers from Forreigners, and when and how the same are to be prevented, and to come nearer, hath given him power, by Writ under the Great Seal of *England*, to command the Inhabitants of each County to provide Shipping for the defence of the Kingdom, and may by Law compel the doing thereof.

So that, my Lords, as I still conceive the question will not be *de persona*, in whom the *Suprema potestas* of giving the Authorities or Powers to the Sheriff, which are mentioned in this Writ, doth lie, for that it is in the King; but the question is only *de modo*, by what Medium or Method this Supreme Power, which is in His Majesty, doth infuse and let out it self into this particular; and whether or no in this Cause such of them have been used, as have rightly accommodated, and applyed this Power unto this Writ in the intended way of defence; for the Law of *England*, for the applying of that Supreme Power which it hath settled in His Majesty to the particular causes and occasions that fall out, hath

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set down Methods and known Rules, which are necessary to be observed.

13. Caroli.

In His Majesty there is a two-fold Power, *voluntas*, or *potestas interna*, or *naturalis*; *externa*, or *legalis*, which by all the Judges of England, 2 R. 3. fo. 11. is expressed *per voluntatem Regis in Camera*, and *voluntatem Regis per Legem*.

My Lords, the Forms and Rules of Law are not observed; this Supreme Power not working *per Media*, it remains still in Himself as *voluntas Regis interna*, and operates not to the good and relief of the Subject that standeth in need.

To instance,

His Majesty is the Fountain of Bounty; but a Grant of Lands without Letters Patents transfers no Estate out of the King to the Patentee, nor by Letters Patents, but by such words as the Law hath prescribed.

His Majesty is the Fountain of Justice; and though all Justice which is done within the Realm flows from this Fountain, yet it must run in certain and known Channels: an Assise in the *Kings-Bench*, or an Appeal of Death in the *Common-Pleas*, are *Coram non Judice*, though the Writ be His Majesties Command; and so of the several Jurisdictions of each Court. The Justice whereby all Felons and Traitors are put to death, proceeds from His Majesty; but if a Writ of Execution of a Traytor or Felon be awarded by His Majesty, without Appeal or Indictment preceding, an Appeal of Death will lye by the Heir against the Executioner, if the Process be Legal, and in a right Court; yet I conceive, that His Majesty alone, without assistance of the Judges of the Court, cannot give Judgment; I know that King John, H. 3. and other Kings have sitten in the *Kings-Bench*, and in the *Exchequer*; but for ought appears they were assisted by their Judges. This I ground upon the Book-Case of 2 R. 3. fo. 10, § 11.

Where the Party is to make Fine and Ransome at the King's Will and Pleasure, this Fine, by the opinion of the Judges of England, must be set by the Judges before whom the Party was convicted, and cannot be set by the King: the words of the Book are thus; *In terminis, non per Regem per se in Camera sua nec aliter coram se nisi per Justitarios suos; & hæc est voluntas Regis, scilicet per Justitarios suos & per Legem suam* to do it.

And as without the assistance of His Judges, who are His settled Council at Law, His Majesty applies not the Law and Justice in many Cases unto His Subjects; so likewise in other Cases: neither is this sufficient to do it without the assistance of His great Council in Parliament; if an erroneous Judgment was given before the Statute of 27 Eliz. in the *Kings-Bench*, the King could not relieve His grieved Subjects any way but by a Writ of Error in Parliament; neither can He out of Parliament alter the old Laws, nor make new, or make any Naturalizations or Legitimations, nor do some other things; and yet is the Parliament His Majesties Court too, as well as other His Courts of Justice: It's His Majesty that gives Life and Being to that, for He only Summons, Continues, and Dissolves it, and He by His *Le Volt* enlivens all the Actions of it; and after the dissolution of it, by supporting His Courts of Justice, He keeps them still alive, by putting them in execution: And al-

An. 1637. though in the Writ of *Wast.* and some other Writs, it is called *Commune Concilium Regni*, in respect that the whole Kingdom is representatively there; and secondly, that the whole Kingdom have access thither in all Things that concern them, other Courts affording relief but in special Causes: And thirdly, in respect that the whole Kingdom is interested in, and receive benefit by the Laws and things there passed; yet it is *Concilium Regni* no otherwise than the Common Law is *Lex terræ*, that is *per Modum Regis* whose it is; if I may so term it in a great part, even in point of Interest, as He is the Head of the Common-Wealth, and whose it is wholly in trust for the good of the whole body of the Realm; for He alone is trusted with the execution of it. The Parliament is the Kings Court, and therefore in the Summons the King calls it *Parliamentum nostrum*; so the Returns of the Knights and Burgeesses, *Quod sint ad Parliamentum Domini Regis*, *Fleta lib. 2. Cap. 2. Habet Rex Curiam suam in Concilio suo in Parliamentis suis*; and therefore the Pleadings there which anciently were usual to begin for the most part *Queritur Domino Regi*, Petitions by private Persons, *Supplicavit Domino Regi*; though for relief against others, Inquisitions and *Venire facias* returnable there sometimes *coram Domino Rege in Parlamento suo*, and sometimes *coram Rege & Concilio suo*, as appears by infinite Presidents in the Parliament Pleas of *E. 1.* and *E. 2.* time, both in the Tower, and many Cases adjourn'd into the *Kings-Bench*.

The Patents pass by authority of Parliament, and likewise the Acts of Parliament had anciently so much of the Kings Name and Stile in them, that, as it appears in the Princes Case in the 8th Report, it was a hard matter otherwise than by Circumstances to know whether they had any thing of the Parliament in them or not; and from those times, even until now, the alteration is nothing in substance, for the Acts for the most part are thus; It is Enacted by Our Sovereign Lord the King, with the Assent of the Lords Spiritual and Temporal, and Commons; the King both then and still is the *Pars Agens*, the rest are but *Consentientes*. My Lords, to apply all to the Case in question by the Cases before cited, it appears that what was done in Parliament by the Law-pharse and Dialect, is said to be done by the King; for as the Civilians say of the Senate, that it is *Pars Corporis Cæsaris*, so we of the Parliament, that it is *Pars Corporis Regis*; the Maxime of *Justinian*, *Quod principi placet Legis vim habet*. It is agreed by Mr. *Bracton*, and all the Civilians; and yet both he and many of them say, That those must pass the Senate though done in the Senate, yet they be *Placita Principis*; so is it, although when we speak *ut Vulgus*, we say Fines are said to be set, and other things to be done by the Kings Court, yet the Law saith, that they be done and set by the King; by the same reason therefore, though when we speak *ut Vulgus* we say such a thing is done by the Parliament, yet in the Legal Account these are done by the King, the Medium or way of doing of them with assistance or consent of His great Council in Parliament.

The second thing which I observe is this, by the Cases before cited it appears, that without the assistance in Parliament, His Majesty cannot in many Cases communicate either His Justice or Power unto His Subjects.

Hence

Hence thirdly it necessarily follows, as I conceive, that the Kingly Dignity doth most operate and manifest it self there, which was the opinion of all the Judges of *England* declared in a Parliament 34 *H. 8.* as appears by *Crompton Jurisd. fol. 10.* who by the Kings Commandment meeting together about Point of Priviledge of Parliament, the King afterwards in declaring their opinion doth it in part of the Case in these words: 'Further We be informed by 'Our Judges, that we at no time stand so highly in Our Estate-Royal as in time of Parliament, wherein We as Head, and you as 'Members, are conjoynd and knit together into one Body-Politick; which His Declaration of it shews likewise that it was the Kings own Opinion, That He at no time stood so highly in His Estate-Royal as in time of Parliament: It appears not by the Record, that this Writ which giveth power to sell and alter the property of the Defendants Goods, issued from His Majesty sitting in this His Estate-Royal in Parliament; and therefore cannot be intended by your Lordships and the Court so to do; if therefore it hath issued from His Majesty in the *Chancery*, or otherwise than in Parliament, where he stands in that height of Sovereignty and perfection, that He hath not so much as a *Posse Nocere*; the question is, whether it be erroneously issued yea or no? My Lords, I have now put the Case, which although in this particular Case it concerns the Defendant only, yet in consequence, as that appears, it concerns both His Majesty and the whole State, and that in matters of the highest nature possible: His Majesty is concerned in the way and manner of execution of the highest and greatest trust which the Law hath reposed in Him, the safety and the preservation of the Kingdom; the Subject is concerned in that wherein he is most tender, in the property of what he hath.

My Lords, the greatness and weight of the Case puts me into this *Dilemma*, not to argue it were to deny that full Submission to the command of some of your Lordships as is fitting; neither should I do my Clyent that service which he expects: If I proceed, the case is too weighty and too great for me to argue; but I know the safest way is obedience, and that the Court cannot expect much from me. Having therefore already put the Case, I will go on in the next place to state it, and afterwards to argue it; the Question being concerning the Validity of the Command in the Writs, which extends so far as to the altering of the property of the Subjects Goods, without their consent; and yet this being for a thing so necessary as the defence of the Kingdom both at Land and Sea, for the ends of the issuing forth of the Writ, as by that appears, are *pro defensione Regni, tuitione Maris, Securitat' subditor' salva Conductione Navium* both outward and inward. In the stating of this great Question I will in the first place endeavour to present your Lordships these known and undoubted ways and means, whereby the Law hath provided for the defence of the Realm both at Land and Sea without the way in the Writ; the first whereof is by Tenures of Land: The Services which grow due hereby are of two sorts.

Services in kind, which tend immediately to Action in times of War; some whereof are for Land-Service, and some for Sea-Service.

The

An. 1637.

The first such as supply His Majesty with Money for that purpose.

The second way is those many Prerogatives which the Law hath settled in the Crown, and made peculiar unto it for the defence of the Kingdom in general.

The third is the particular supplies of Money for the defence of the Sea alone in time of danger, both ordinary and extraordinary, the thing principally intended in the Writ.

These, my Lords, will be the materials whereupon I shall afterwards state the Question.

In that of Tenures I shall begin with the Services in kind, and which tend immediately to Action in time of War.

The Kings of this Realm, as they are the Head of the Common-Wealth in general, so are they the Head and Root from whence all Tenures spring; for, as our Books agree, all the Land within the Realm is either held mediately or immediately of the Crown: as therefore the Law hath appropriated the defence of the Kingdom to the Kings thereof, so hath it, as one of the principal ways for the effecting thereof, intrusted them with the reservations of such Services as might serve for that purpose.

Amongst which, intending first to speak of Land-Service, I will begin with the Tenures by Knights-Service; every man that holds by this Service from a whole Knights-Fee to any part of it, ought to find a Man competently armed for the Wars: Neither doth the finding of Arms satisfy this Tenure; for he that holds by a whole Knights Fee, ought to be forty days in the Service, and he that holds by the Moiety of a Knights Fee, twenty days, and so in proportion.

By the Books of the Knights Fee of *Henry 2. E. 1. and H. 6.* time in the *Exchequer*, it appears, that there were many Thousand Knights Fees held of the Crown; and in the *Red Book* it is said, That it was in *ore omnium*: That in the Conquerors time there were 30000 held of Him, some since have computed them to 60002, which perhaps may be with addition of those that are held of common Persons, which are not of those upon which I shall insist.

But it may be objected, that in respect that these Services are reserved by the King, that therefore they were not Instituted only for the defence of the Realm, but may be exacted for Forreign Wars, or other-where for His Majesties peculiar Service, as He shall think fit, which may be enforced both from the name which our old Books and Deeds stile this Service by, when due to the Crown, that is *Forinsecum Servitium*: And secondly from the use thereof; it having been performed in *Normandy, Gascoigne, Toulouse, and Ireland*, as appears by the *Red Book*, and many Cases put together in the Institutes in the Chapter of *Escuage*.

To the first Objection of the Name, the Answer is clear; for anciently when those that held immediately of the Crown by this Service, did enfeoff others of the Land so held, desiring to free themselves of the burthen of this Service; besides the Services which they reserved to themselves, they likewise commonly in the Conveyance made provision for their own Acquittal against the King, and the Feoffee took the whole Burthen therefore upon himself.

himself: And therefore in the Book of Knights Fees of H. 2. time in so many Hundred Certificates of those that held immediately of the King, *William London of Wiltshire* certifies thus: *Quod nullum Militem habeo feoffatum, sed debeo defendere Feodum meum per Servitium Corporis mei*; of this nature are three or four others: All the rest after certifies by how many Knights Fees he holds, then likewise he certifies that *defendit*, &c. against the King, by such and such *Milites Feoffatos*; and in these Deeds of Feoffment, after the reservation to the Feoffer, was this Clause, *Et faciend' inde, sometimes forinsecum Servitium, sometimes Regale Servitium. Bracton lib. 2. fo. 36, 37. and Fleta lib. 3. Cap. 14.* say that it is called *Regale Servitium, quia est Servitium Domini Regis*; and by them *Regale Servitium, and Servitium Domini Regis*, are all but one and the same thing; to that therefore I shall need give no further answer.

By the same Authors it is called *Forinsecum Servitium, quia capitur foris, sive extra Servitium, quod fit Domino Capitali*; and that is the meaning of the word, and that is called *Forinsecum*, in regard that the Service is to be done *foris*, that is, out of the Kingdom, is cleared to your Lordships by these Cases, P. 49. H. 3. Com' P. 31. E. 1. Ro. 32. Dor. Com' Hill' 33 E. 1. Ro. 52. Dor. fo. Cornage, which we know is to wind a Horn within the Realm; in all those three Cases is called *Servitium Forinsecum Domini Regis Cornagii*; and *Castle-Gard* within the County of *Northumberland*, at the Castle of *Bamburgh*, called *Forinsecum Servitium Domini Regis*.

To the second part of this Objection, that this Service hath been often performed beyond Sea.

For the present I shall give answer thereunto but in part, by telling your Lordships, without making proof of it as yet, that *Escuage*, which is all the penalty that lies upon the Tenant for his default, cannot be assessed but in Parliament; which if it be so proved that the King cannot command this Service otherwise than for the good and defence of the Realm, in regard that if it be otherwise, no *Escuage* can be assessed without consent in Parliament, which likewise by intendment according to the good that the Kingdom is likely to receive by the Service, will proportionably lessen or encrease the *Escuage*. My Lords, that this Service was instituted for the defence of the Realm, appears by the care which the Law hath always taken for the encrease and preservation of these Services; so that if the Lord purchase part of the Land, yet the whole Service remains; which being entire, and to be done by the Body of a Man, in that of being a Steward or Bailiff, or other private Service, makes an extinguishment of the whole.

The Authorities in this point are many in the Statute of *Mortmain*, 7 E. 1. The mischief by conveying Land to Houses of Religion, is there expressed to be *quod Servitia quæ ex hujusmodi feodis debentur, Et quæ ad defensionem Regni ab initio provisæ fuerint, indebite subtrahuntur*; and besides the Declaration, that they are for defence of the Realm, that Statute likewise provides for the increase of them; for if the Lord enter not within the year and day after the Feoffment, the King is to enter; and as the words of the Statute are,

An. 1637. are, *Alios inde Fecffavimus per certa Servitia nobis inde ad defensionem Regni nostri facienda*, the words are observable *per Servitia nobis inde facienda*; for though the Service be to be done to the King, yet it must be so done to the King as it be *ad defensionem Regni*.

This explains the Charter of H. 1. Enrolled in the *Red Book* in the *Chequer*, and cited in *Matthew Paris*, in the first Lease of H. 1. Reign, where the King frees Knights-Service Land from all Geldes and Taxes, that being eased of this Burthen, *apti & parati sint ad Servitium meum, & ad defensionem Regni mei*: In the *Black Book* in the *Chequer* fo. 3. *Scutage* defined, *ut imminente in Regnum hostium machinatione*, it is then due: So *Bracton* in his second Book fo. 36, 37.

That they are so *propter exercitum, & patriæ tuitionem*, and to be performed *certis temporibus cum casus & necessitas evenerit*, *Britton* fo. 162. 6. *les Fees de Chartre fuerunt purvus al defense de nostre Realme*.

The Books are exprefs 35 H. 6. 41. 8 R. fo. 105. *Talbots Case* 6 Report fo. 2. *Burvertons Case*.

Inst. pl. 103. Co. Preface to the ninth Report.

For the further clearing of what is said already, and what I am to add, it is observable, that those Services are not created *ex provisione hominis*, but *ex provisione Legis*; for as it is in 33 H. 6, 7. & 6 Report fo. 7. *Wheelers Case*, and in the 9th Report fo. 123. *Lawes Case*; if the King grants Lands without reserving any Service at all, or *absq; aliquo inde reddendo*, the Patentee shall hold the Land by Knights-Service in *Capite*; the Books of 24 E. 3. 65. *Stamf. Prerog.* fo. 10. *Instit. pl.* 73. said, That the first Kings of this Realm had all the Lands of it in their own Hands; which appears likewise by this, that all the Land within the Kingdom is held mediately or immediately of the Crown; in the transferring of those Lands to the several Inhabitants, we see by the Cases before cited, that the care and Provision of Law was, that all should by Tenure of the Crown be made liable to the defence of the Kingdom: I shall therefore shew briefly how the Kings of this Realm have executed the trust for the defence both at Land and Sea.

And first a little further to prosecute the Land-Service; because the Tenures by Knights-Service tie the Tenant only to forty days Service, and that to the defence of the Realm only in the general; they therefore reserved divers other Tenures for particular, and certain Services as grand *Serjeances*; some whereof, as in the *Institutes* fo. 106. is observed, were for Service of Honour in time of Peace, and some for Military Service; of which last sort, as appears in the Book of *Serjeances* in the *Chequer*, and many Rolls of them in the Tally-Office; some whereof were to carry the King's Banner, some to summon the Tenants *ad exercitum*, some to be of the Vanguard, some of the Rear, some to serve in *Wales*, some in *Scotland*, some *infra quatuor maria*, some *infra quatuor portus Angliæ*; of these are Services of all sorts necessary for an Army, and in respect of the multitude of these Military *Serjeances* over the others as forgetting them, *Britton.* fo. 164. in his definition of grand *Serjeancy* saith, That they are *pur defence del' Relme*; & *Fleta lib.* 3. Cap. 16. *Magnæ Serjancie Regem tantum respiciunt & patriæ defensionem*;

nem. Besides, the grand Serjeances of this nature likewise are the Tenures by Cornage to give warning of the Enemies coming into the Kingdom, and the Tenures by *Castle-Guard*; these by *Lit. III.* were to defend the Castles when the Enemy enters the Realm, which in ancient times were Forts and Bulwarks of the Realm; whereof, as Mr. *Cambden Pag. 815.* observes, there were 1115 in *H. 2d's* time, whereof a great part, and especially such as were upon the Sea-Coasts, and Frontiers of *Scotland* and *Wales*, the Places of greatest danger, were the Kings; and besides those Grand Serjeances, which were to be performed by the Bodies of Men, there are Petty Serjeances for the finding of Armor of all sorts for the Wars.

My Lords, that the former Kings did execute this power of Tenures for the defence of the Realm, according to the Trust by the Law reposed in them, appears further in this, that in the Places of greatest danger there were ever most of them.

All along the Sea-Coasts of *Kent* and *Sussex*, nearest of all others to *France*, are the five Ports, who besides their Sea-Service have all Jurisdiction within themselves, that the Inhabitants for weakning of those Ports might not be compelled to travel out of them, for any matters of Justice, and divers other Priviledges, both to invite the People to live there, and to incourage them to the defence of those Places; and *Dover-Castle*, the Key of the Kingdom, as of greatest Consequence, so hath it 200 Tenures by *Castle Guard*, wanting very few, besides divers Tenures for repairing of the Castle; which appears by the Record called the Quire of *Dover*, remaining in the *Chequer*; which that it is of Record, and determines the Services of the five Ports, as *Domesday* doth the Tenures of Ancient Demesne, appears *Int. Coram 27 E. 1. Rot. 35.* and by another Record added to that Quire of *Dover*, 20 *E. 4.* it likewise appears, that in times of War the King is to maintain in that Castle 1000 Foot and 100 Horse for the defence of it.

Next to come to the Borders of *Scotland*, there we find the Franchise of the Bishoprick of *Durham* instituted likewise for the defence of those parts, which *William* the Conqueror, as *Malmesbury fo. 157.* observes, first made a County Palat. and *Walker* Bishop thereof *ducem pariter & Episcopum ut refrænaret rebellionem gentes gladio & reformaret mores eloquio.*

And besides this in all the Counties of *Cumberland*, *Northumberland*, and *Westmoreland*, are more Tenures for the defence of the Realm than any of the Inland Counties, and those likewise most proper for Borders *Coram pat. 31. E. 1. Ro. 32. Dor.* It's there found by Inquisition returned into the *Chequer* that every Lord of a Town within the County of *Northumberland* held by Cornage; when the Scots entred the Realm Mr. *Cambden* in his *Brit. Pag. 794. and 799.* mentioning the great number of Petty Baronies and Castles all along those Marches, which *Britton fol. 87.* and institutes *fol. 73.* say were instituted for the defence of the Realm, observes herein likewise the Policy of the Law, and likewise the many Serjeances there in the advancing of the Kings Army to be of the Vauntguard, and in the retreat, in the Rear, those People best knowing the ways and passages of the Country.

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Whence, my Lords, when we come to the Marches of *Wales*, there we find another County Palat. I mean that of *Chester* and the Earl of *Chester* and his Barons to oppose the *Welch* Invasions.

Upon those Marches, besides the like services, as upon the Borders of *Scotland*, there were likewise many Lords Marchers of several Baronies, who had administration of all Justice within themselves, *secundum Legem Marchiae*; and for their services to be done against the *Welch* they had two special privileges, that is the third peny of all Spoiles in War as was adjudged in Parliament, 20 E. 1. B. R. Ro. 123. in that great case between the Earls of *Glocester* and *Hereford*, and in the Parliament Book 20 E. 1.

And secondly, all the Prisoners that they took in the Wars *per Consuetudinem Marchiae* belonged to the takers of them.

Trin. 25 E. 1. Ro. 28. Coram Roger de Knownell in partibus Mountgomeriae, in guerra Walliae 23 E. 1. had taken three *Welch* Prisoners; and because by the Kings Command they were released of their Imprisonment, it's there adjudged that the King should pay him forty pounds in recompence, and so it was adjudged *Coram Hill. 25. E. 1. Ro. 11. Dor.*

My Lords, His Majesty is in the actual possession of these military services, by taking the profits of Wards, Marriages, Releases, Licenses, and forfeitures for alienation, and *Primer Seisin* as fruits of them.

That the profits of Wards and Marriages are to be spent in Wars for the defence of the Realm as well as for bringing up the Ward, the Books are 35 H. 6. 41. *Britton* 162.

That the Lords receive the profits because he is not able to do the service if the Kings Ward was within age when the Tenants were summoned *ad exercitum*, he paid no *escuage*, as is adjudged *M. 20 E. 1. R. 9 & 20 Co'ia & M. 28. E. 1. Bra. irrott.* so it is for Reliefs and Licenses and forfeitures of Alienation of the Kings Tenant, without his consent might be altered, and for *primer seisin* the King was to receive the profits till the Tenant by his homage had assured the King of his service, the Summons always commanding him to be at the place of the Rendezvous *in fide & homagio quibus nobis tenemini*, all these being but fruits that fall from these Military Services.

My Lords, Now to come to Sea-service, the care of the execution of this trust by Tenures was extended likewise to the defence of the Sea.

The Town of *Lewes* in *Sussex* holds by this Service *quod si Rex ad Mare Custodiendum suos mittere voluisset*, they paid so much money, *Et hos habebant qui in manibus Arma Custodiebant*, this, my Lords, is in *Domesday*: in *Colchester* every House to pay six-pence *per Annum, ad Victum soldar' Regis ad expeditionem terrae vel Maris Warwick*: *Si Rex per Mare contra Hostes suos ibat*, the Town was to find four Boatswains; *Salisbury* then to pay so much money *ad Pascendum Buslecorlos Domini Regis*, which as *Florentius* explains the word be *Ministros Nauticos*; *Glocester* and others such a weight of Iron, *ad Claves Navium Regis*, others to find Horses to carry Armour and Weapons to the Ships.

My

My Lords, Of this Nature are many in that Book, which particularly to mention to gain time I will omit. 13 Caroli.

That the Tenures of this kind after the Conquerors time continued in use, and were well-known appears by the Register fol. 2. where, amongst other Services, is this of shipping also instanced in these words, *Quod clamat tenere de nobis per liber' Servit' inveniendi nobis quinq; Naves pro omni Servitio*. In the *Iter Roll of Essex*, 13 E. 1. Ro. 7. it's presented that the Town of *Malden tenet per Serjantiam inveniendi unam Navem, quandocunque Rex necesse habuerit personaliter ire, vel mittere propter negotia Regni*, and from the time that they came to the place of Rendezvous to stay in the Service forty days, *sumptibus propriis*; and being there presented that they made default at the *Welch* war, they plead they had no Summons.

So, my Lords, In the Books of *Serjances* of E. 1. Time, in *Kent*, the Town of *Killingborn* is to find one Ship; and in the County of *Berks*, *Fulk Caudry* holds the Mannor of *Padworth per Serjantiam inveniendi servientem*, to perform Sea-service, *Bra. p. octavo E. 2. Rot. 40. Will. Dyer* in the County of *Sussex* to find a certain proportion of Cordage.

Iter Cantie 21 E. 1. Rot. 46. *Solomon de Campis* holds *per Serjantiam tenendi Caput Dom. Regis* when he is at Sea, *sive necesse fuerit*, and so Rot. 30. another in the same *Iter Roll*.

The five Ports and their Members are to find fifty seven Ships, and in every Ship twenty men, and a Master, *Armatos & bene ariatos*; from the time they come to the Rendezvous, they are to continue in the Service 15 days at their own Charge, and afterwards as long as the King pleaseth; but after the 15 days the King is to pay the Master and Constable 6 d. a day, and the rest 3 d. a day for their Wages: This Service appears by the Records of the Quier of *Dover* before-mentioned, and the Patent-Roll of 7 H. 7. pars.

Both which Records imply, that this Service of theirs cannot be exacted otherwise than for the defence of the Sea; for it cannot be demanded above once in a year, nor then neither, *nisi necesse fuerit*, *Parliament' Pet' 1 E. 3. Rot. 4*. The Barons of the Ports in consideration of their Sea-Service, pray a confirmation of their liberties *pro Salvatione dict. Navigii & Regni*; commonly when the Land-service was summoned, these likewise were summoned to the same Service at Sea, as appears in the close Rolls, 28 E. 1. M. 15. 31 E. 1. and 34 E. 1. M. 15, 16. in all which years the Land-service was summoned for *Scotland*, and the Summons both for the one and the other run in the same words, commanding them to be at the place *cum toto Servitio vestro quod nobis debetis*, which shews it to be a Service by Tenure.

That these Services of theirs are for the defence of the Realm; and likewise that there are many of like nature besides these, which by a superficial reading of two or three *Iter Rolls* I have cited, appears by the Parliament Roll of 13 E. 1. pars 1. Numero 11. where is declared in these words, That the five Ports, and other great Towns and Havens, are franchised *pur estre gard & mure inter nous & aliens*; if it fall out that they shall endeavour *nostre terr' enter, & assay terr'*, & *sunt tenus a ceo faire*. My Lords, a fuller Declaration than this there cannot be, That both the Ports, and many of the

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the Havens and Sea-Towns are bound to the Service of Shipping for the extraordinary defence of the Realm, as well as the ordinary.

I have now done with the Services in kind; and because these which immediately tend to Action alone were not sufficient to defend the Realm, and this in the frame and first constitution of the Common-wealth being foreseen, and that the Land, or *fundus Regni*, the most visible and constant supplier of our wants, was best able to supply this likewise; therefore besides them there were divers other Tenures created for that purpose. Those which next I am to speak of are such as supply His Majesty with Money for that purpose.

In the *Black Book* in the *Chequer*, lib. 1. Cap. 7. it's said, that in *Primitivo Regni statu ad stipendia & donativa Militum, & alia necessaria ex Castellis*, and other Lands, in quibus *Agricultura non exercebatur pecunia numerata succedebat*; it might from hence be colorably inferred, that in respect, *ex provisione Legis* upon the Kings passing of Lands, a Tenure for Knights-Service for the defence of the Realm was to be reserved, that in Case upon such Grants Rents only without any such Tenure were reserved, that yet this Money should be employed for Souldiers Wages, or other necessary Affairs of the Common-Wealth, *ad Stipendia Militum, & alia necessaria*: But not to press this further;

It's plain, that all Men within the Kingdom were not equally inheritable, either to the Freedom of Body, or propriety of Lands or Goods, but that there were three degrees and ranks each differing from other in all these; first, Villanies; 2. Free-holders, either by Knight-Service or Free Soccage; 3. Tenants of Antient Demesne, and that held by Burgage within Cities and Burrough-Towns.

First, for the Villain, we know that as to his Lord he had Freedom in neither; in respect of his Body he could not *ire quo voluit*, but the Lord at his will might imprison him; in respect of his Lands and his Goods, he might tax him *de haught & de basse*.

2. The Free-holders, the greatest part of the Realm always had an absolute Freedom in both.

3. The third, and that is the Tenants in Ancient Demesne, and Burgers, they had an absolute Freedom in their Persons, but qualified in the other of propriety, not taxable at will, or as Villains, but for the defence, and other necessary affairs of the Realm they might be taxed without consent in Parliament.

My Lords, that these had a divided estate from other free Tenants, is clear: and first for Tenants in Ancient Demesne, if it be questioned whether such Land be Ancient Demesne yea or not, the issue is in these words, whether it be Ancient Demesne or Frank-Fee: By this it appeareth they have not a frank and free Estate as the others have, as all our Books agree; they have no Vote in Parliament, for they have no Voice in election of Knights, nor pay to the expences of the Knights that serve in Parliament, nor Subsidies granted in Parliament. *N. B.* 79. and 14. it is often disputed in our Books, whether Acts of Parliament extend to them, unless they be specially named; neither can they sue at Common Law for any thing that concerns the Free-hold, but only by a Writ of Right close within themselves; and

and therefore *Bracton*, fol. 209. calls them *Villanos privilegi-^{13 Caroli.}atos*.

The same it is of Burgeses within Cities and Burroughs, and therefore the Statute of *Merton* makes it a disparagement for the Lord to Marry his *Warde Villanis*, & *aliis sicut Burgensibus*. N. B. 7. and other Books no Assises will lie for such Lands, but they are impleadable without Original Writ by a Bill of fresh force; and as a Chattel they may devise their Land, by the Statute 1 E. 2. *de Militibus* for such Land; and for Ancient Demesne no Man is compellable to take the Order of Knighthood. Much more might be brought in proof of this, which I omit.

My Lords, all our Books agree, that the Tenants in Ancient Demesne were to Plow and Manure the Kings Lands, being His Demesnes; in a Manuscript that I have seen the Author saith, That he hath an ancient Manuscript which saith, that the Corn, and other Victuals arising hereby, was to store the Kings Garrisons, and Castles; and considering the number of those Mannors, there being above a Thousand of them in the Kings Hand at the Conquest, it appears by Domesday, and that those Mannors for the most part are great, and that the greatest part of the Soccage Tenures till H. 2's time, as appears by the *Black Book lib. 1. Cap. 23.* were to find Victuals of all sorts in kind for the Provision of the Kings House, and were in his time turned into Rents.

Although this may seem probable, yet because I have not seen the Manuscript, I'll insist no more upon it.

That for which these and the Tenures of Burgage in the Kings Cities and Burroughs, were mentioned in the raising of Money for the necessary Affairs of the State, that these were anciently talliable without their consent in Parliament, is so plain and frequent in the *Chequer Rolls*, the *Parliament Rolls*, and the *Patent Rolls*, as that I intend to cite nothing in proof thereof; It will be admitted by them that are to argue of the other side: That which I shall endeavour to prove is, that these were not talliable at the Kings Will and Pleasure, but only for the defence, and other necessities of State. N. B. fo. 15. 49 E. 3. 22. they be not talliable *de haut & basse*, as Villains are; and therefore *Bracton* fo. 209. calls them *Villanos Privilegiatos lib. Parliament. fo. 112. taliare & rationale auxilium dare pro necessitate*. N. B. 14 E. They are taxable *pro grand Case*, Rot. Parliament. 6 E. 3. Commissions to tax Cities and Burroughs, and Ancient Demesnes upon Petitions of the Commons revoked, and Writs in due form to be set, and for the time to come the King shall not assess *tallage forsq;* in such manner *come a d'estre fait en temps de ses Ancestors*, & *come il devera per reason*: The occasion not requiring it, I shall say nothing of it when these Tallia- ges are disused.

My Lords, I have now done with the Tenures, the first way whereby the Law hath provided for the safety of the Realm, which of themselves not enabling the King entrusted therewith all sufficiently to do it; the Law therefore, besides the Honours, Mannors, Castles, and other constant Revenues of the Crown, for the supportation of the ordinary Charges thereof, hath appointed unto it divers Prerogatives for the extraordinary, and for this of the defence of the Realm, as one of the chiefest of them: these Prerogatives

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gatives they have an influence into the Estates of all the Subjects in the Realm, and are so many, that to gain time I will omit to mention any of them; that which I shall insist upon, will be to prove, that the things coming to the Crown by this Prerogative way, are to be employed for the defence, and other publick Affairs of the Realm. In His Majesty there is a double Capacity, Natural and Politick; all His Prerogatives are *Jure Coronæ*; and of all such things He is seised *Jure Coronæ*; and therefore, as in other Corporations, such things are *patrimonia & bona publica*, to be employed for the common good; so likewise by the same reason here, the reason why the King hath Treasure-trove, and Gold and Silver-Mines in the Earth, in the Case of Mines is declared to be, because the King is hereby to defend the Kingdom; and in Institutes in the Title of Soccage, fo. 28. 131. the reason of many of the rest, *quia Thesaurus Regis est fundamentum belli, & firmamentum pacis*. This I conceive to be the reason, that by the Stat. of 14 E. 3. Cap. 1. Escheats, Wardships, Customs, and Profits arising of the Realm of England, should be declared to be spent for the safe-guard of the Realm, more than the Profits of the Kings Mannors and Lands, and of the difference made in the *Cōia M. 3. R. 2. London*, between *Reclat præventiones Regni*, which, by the advice of the Lords of the Council, were to be spent in the Household, and the other Profits of the Crown to be spent *circa solutionem & defensionem Regni*, in the Parliament Roll of 6 R. 2. N. 42. The Commons Petition, That the King will live of His Revenues, and that Wards, Marriages, Releases, Escheats, Forfeitures, and other Profits of the Crown, may be kept to be spent upon the Wars for defence of the Kingdom; which sheweth, that there was always a difference made between the Profits arising of the Kings Mannors and Lands, and that which rose by the Prerogative in casual and accidental ways. My Lords, I have now done with these.

Stat. 14 E. 3.
Cap. 1.

Parliament
Roll 6 R. 2.
Numero 42.

The third
way that the
Law hath pro-
vided for de-
fence, is sup-
plies of Mo-
ney.

Nota.

Bract. lib. 3.
Cap. 13. fo.
129.

The third way whereby the Law hath provided for the defence of the Kingdom, is particular supplies of Money for the defence of the Sea alone in times of danger, both ordinary and extraordinary; for besides the Supplies of Money before-mentioned, which are to be employed for the good and defence of the Realm in general, as in the other Cases where the Law putteth the King to any particular Charge for the protection of the Subject, it always enables Him thereto, yields Him particular supplies of Money for the maintenance of the Charge; so here, the Courts of Justice for the preservation of us in our Rights are supported at His Charge, and that is the reason why He hath all Fines and Amerciaments, the Goods of Out-lawed Men in Personal Actions, *Bract. lib. 3. Cap. 13. fo. 129.* and Fines for purchasing of Original Writs, & *pro licentia concordandi*, which in supposition of Law are paid, for not proceeding, and for troubling without cause, the Kings Justices who are maintained in their Places at the Kings Charge: these they are the *veftigal' Juditiarum*.

The defence of the Realm extends it self to many Particulars
1. Of the Church and of Religion; and therefore in the Summons of Parliament the cause of the Calling of the Parliament is always declared to be *pro defensione Ecclesiæ Angliæ* in particular, as well as *totius Regni*.

His

His Majesty therefore hath the Temporalities of all Bishopricks, *sede vacante*, a Prerogative, and that which Patrons have not, with an Addition of the First Fruits and Tenths of them, and all other Ecclesiastical Promotions and Benefices in *H.* the 8th's time, and likewise the Tythes of all Lands which lie not within any Parish.

2. For defence of Land alone, besides these Military Services before-mentioned, the Profits of Wards and Marriages, which, as I have read, no other Christian Prince hath as a Fruit of them, are received for that purpose.

So it is for the Sea in *Rot. Scoc.* 10 *E.* 3. *m.* 16. It is said that the King and His Ancestors *Domini Maris Anglicani & defensores contra Hostium invasiones ante hac tempora extiterunt*; for the supporting of this Charge therefore, they have not only had the Grand Custom of the Mark and Demy-Mark upon the Wool, Wool-fells, and Leather, and the Prisage, that is, one Tunn of Wine before the Mast, and one behind of every tenth Tunn, which were even due by the Common Law, as appears by the Book of my Lord *Dyer*, 1 *El.* 165. and Sir *John Davis's* Reports *fo.* 8, & 9. and implied by *Magna Charta* *Ca.* 30. that Merchants may Trade *per rectas & antiquas Consuetudines*; but likewise divers other things were afterwards granted by Act of Parliament in addition to them.

As first, the Petty Custom began 31 *E.* 1. and made perpetual by the Statute 27 *E.* 3. *Cap.* 26. and likewise divers Aids and Subsidies, which are an encrease of Customs upon the Staple Commodities of Wools, Wool-fells, and Leather, and Tunnage, and encrease upon Wines, and Poundage, and encrease upon all other things imported or exported, either by Denizens or Aliens: That which in this kind was taken by His Majesty 11th of His Reign, when this Writ went out, was 300000 Pounds and upwards.

The Aids and Subsidies, and likewise the Tunnage and Poundage anciently granted upon particular occasions only, and afterwards to the late King and Queens for their Lives by Act of Parliament; and being now granted to His Majesty; and likewise the new Imposition, which altogether make up the afore-mentioned Sum of 300000*l.* of the Legality hereof I intend not to speak; for in case His Majesty may impose upon Merchandise what Himself pleaseth, there will be the less cause to tax the In-land Counties; and in case he cannot so do, it will be strongly presumed, that He can much less Tax them. The proving of these Two things herein will serve my turn.

1. That His Majesty *de facto* takes them, and that this judicially appeared to your Lordships and the Court.

And 2. That these and the Ancient Customs are for the defence of the Sea.

For the first, it was declared by His Majesty in the last Parliament, and annexed to the Petition of Right, as part of it, that His Majesty took them, and could not be without them; whereof He likewise desired the Judges to take notice, and that they might so do, it is Enrolled both in this, and other the Courts of *Westminster-Hall*.

For the second, that the grant of Custom is principally for the protection of Merchants at Sea against the Enemies of the Realm, and

13 *Caroli*

Ro. Scoc. 10.
E. 3. *m.* 16.

Petty Custom 31 *E.* 1.
Stat. 27 *E.* 3.
Cap. 26.

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Sir John Dav-
ies's Reports
fo. 9. 12.
7 Jac. Balles
his Case in the
Sea.

and Pirates, the common Enemies of all Nations, is Sir John Dav-
vis's Reports fo. 9, 12. And that these, and likewise the Imposi-
tions are for that purpose, was held by many of the Judges in the
Argument of *Balles* his Case 7 Jac. in the *Chequer*, in the Case of
Impositions upon Currands; and likewise by the Kings Council,
when the same Case afterwards came to be debated in Parliament,
and was one of the main Reasons urged by them for the mainte-
nance of that Judgment. That the Aids and Subsidies, and like-
wise the Tunnage and Poundage, before they were granted for
Life, were not only for the Protection of Merchants, and the ordinary
defence of the Sea, but also for the defence thereof in times of ex-
traordinary dangers, and of Invasion from Enemies, appears by the
several grants of them in the Parliament Rolls.

Rot. Par. 1. R.
2. pars 2. N. 9.
27.

Rot. Parliament. 1 R. 2. pars 2. N. 9 & 27. the Kingdom being
in point to be lost by the Enemies of *Spain* and *France*, and divers
others there mentioned, who made War both at Land and Sea; a
Subsidy upon the Grand Customs was granted, as the words are,
pur le defense & Rescous del' Kingdom; this was for two years, and
persons assigned to receive and expend the Money.

Co'ia M. 3 R.
2. London.

Co'ia Mich' 3 R. 2. London. William Wallworth and John Philpott
Citizens of London, the Treasures of it upon their Accompt shew
the particulars how this Money was expended *circa salvationem &*
defensionem Regni, and discharged.

Parl. 3 R. 2.
N. 16, 17.

Rot. Parl. 3 R. 2. N. 16, 17. the same Cause as 1 R. 2. continu-
ing, and that the Enemies intended to blot out the Name of the
English from under the Heaven; the Subsidy continued for a year
longer.

Par. 5 R.

5 R. 2. pars 2. N. 14, 15. Tunnage and Poundage granted *issuit*
que soit apply sur safeguard del' mere, & nul parte a il hors, and the
King, at the Petitions of the Commons, appoints Receivers.

Par. 6 R. 2.
N. 13.

6 R. 2 pars 2. N. 13. The Commons Complain, that notwith-
standing the Grant of Tunnage and Poundage, the Sea is not kept,
and therefore Persons named and assigned in Parliament to receive
the Money, and to do it.

Rot. Parl. 10 R. 2. N. 1. Tunnage and Poundage, and Subsidy
for a year.

11 R. 2. N. 6 & 12. Tunnage and Poundage, and Subsidy for
a year.

13 R. 2. N. 20. both for a year.

14 R. 2. N. 16. both for three years.

17 R. 2. N. 12. both for three years.

20 R. 2 N. 18. Subsidy for five years, and Tunnage and Pound-
age for three years.

2 H. 4. N. 9. both for two years.

6 H. 4. N. 9, 10. both for two years, upon condition to cease, if
the King before St. Hillary provide not a sufficient Army for the
Sea.

11 H. 4.

8 H. 4. N. 9. and 9. H. 4. N. 26. both as 6 H. 4. 11 H. 4. both
for two years, for the common Commodity and defence of the
Realm: 13 H. 4. N. 10, & 11. for one year, so as the same be con-
fessed to proceed of their own good will, and not out of duty.

5 H. 5. N. 17. for four years, as 13, &c. and upon many Con-
ditions.

1 H.

13 Caroli.

- 1 H. 6. N. 9. For two years.
 3 H. 6. 17. Subsidy for three years, Tunnage and Poundage for one year.
 4 H. 6. 22.
 6 H. 6. N. 11. For two years Tunnage and Poundage, viz. 6 s. 8 d. upon every Man within a Parish Church, that hath twenty Nobles, and 6 s. 8 d. upon every Knights Fee held immediately of the King.
 8 H. 6. 15. Tunnage and Poundage to continue until the next Parliament.
 9 H. 6. 14. both, and for two years.
 10 H. 6. 21.
 4 H. 6. 14. for two years.
 23 H. 6. 16. for four years, and double upon Aliens.
 27 H. 6. 10. as 23 for five years.
 31 H. 6. N. 8. and 42. Tunnage and Poundage first granted for life, and N. 41. assigned into the Subjects hands three years for the good of the Seas.

3 H. 4. N. 29.

My Lords, either by the Grant it self of them, or by the Declaration of the Calling of the Parliament, it appears that those were all granted upon extraordinary occasions; and when they came to be granted for life, as appears by the Rolls, and likewise by the Printed Statutes of 13 Ed. 4. Cap. 3. 13. and they were not only granted for the ordinary defence of the Realm, and principally of the Sea; but likewise that the Kings might always have in readiness a Stock of Money in their Hands to withstand an Invasion, as is declared by the very words of those Statutes.

Stat. 12. E. 4.
 Cap. 3.
 1 E. 6. Cap. 13.
 1 Mar. Ca. 19.
 1 El. Cap. 19.
 1 Jac. Cap. 33.

My Lords, His Majesty is in possession of them, and was pleased by His Proclamation Printed 1626, declaring the cause of the dissolution of the last Parliament, as appears by Pag. 17. to declare that they were always granted to His Progenitors for the guarding of the Seas, and the safety and defence of the Realm; and in the 18th Page is graciously pleased in these words to declare, That He doth and must still pursue these ends, and undergo that Charge for which it was first granted to the Crown; and Page 44. that he receives it for the guarding of the Seas, and defence of the Realm.

Proclamation
 1626. Pag.
 17, & 18.

My Lords, I have now done with the ways which I first propounded, whereby the Law hath provided for the defence of the Realm; I shall add this only, that by the Statute of Winchester, which was made in the 13th year of E. 1. every Man *secundum statum & facultates*: for the words of the Statute are, according to the quantity of his Lands and Goods is to find Horse and Armour for the defence of the Realm: For that that Statute in this particular extends not only to the keeping of the Sea, but likewise to the defence against Forreigners, is declared in the Parliament Roll of 3 R. 2. N. 36. and by the Stat. of 5 H. 4. in the Parliament Roll N. 24. not printed, *juxta quantitatem terrarum & bonorum* against Invasions, each Man is to find Armour, and by the Statute 1 E. 1. Cap. 5.

Stat. de Winchester 13 E. 1.

An. 1637.

Par. 3 R. 2. N.
36. Stat. 5 H.
4. Parl. Roll
N. 24.
4. & 5 P. &
Mar. Cap. 2.
1 Jac. 24.

These Men, upon sudden coming of strange Enemies into the Realm, may be compelled to march out of their Counties where they live; whether they may be compelled so to do without Wages, I shall have occasion afterwards to speak, how far the Statutes of *Winchester*, and 5 H. 4, for Arms, upon the Statute of 4, & 5. P. & M. Cap. 2. and 1 Jac. Cap. 25. are in force, I shall not speak. First, my Lords, I shall now proceed to the stating of the Question.

Bracton, in the Beginning of his Book says, That in *Rege necessaria sunt hæc duo Arma scilicet, & Leges, quibus utrumq; tempus Bellor' & Pacis recte possit gubernari*; and *Glanvil* in the beginning of his Book, *Regiam Majestatem Armis contra Gentes sibi Regnoq; insurgentes oportet esse decoratum*; His Majesty, as he is Lord of Sea and Land, so by that which hath been said it appears, that He is armed with Power for the defence of both. My Lords, the reasons in the Writ, as they are weighty, so from these known supplies, whereby the Law hath provided for the safety of the Realm, they will all of them be confessed, and yet thereby receive answer; and that the Law hath foreseen, and provided the supplies accordingly, without the way in the Writ. 1. The command in the Writ being in *fide & legiantia quibus nobis Tenemini*, it's thence inferred, that each Subjects Allegiance binds him to contribute to the defence of the Realm. In the old Customes of *Normandy Cap. 43.* Allegiance binds *ad Consilij & Auxilij Adjuramentum*; this, although it be principally performed by the Parliamentary, both Advices, and Aids, yet besides these extraordinary, by that which hath been said, we see both by the Tenures in kind, and pecuniary Supplies, that without the assistance thereof our Persons, Lands, and Goods, by His Majesties Command alone, are made contributory thereunto, and that in a large proportion. 2. If the Rule whereby this Contribution must be regulated be, as in the Writ, *Secundum Statum & facultates*, that likewise is satisfied, and that both for Sea and Land.

1. For Land, in case either the Statutes of *Winchester*, or 5 H. 4. be a-foot, then in words in that of finding Arms *juxta quantitatem terrarum & bonorum*: So secondly in respect of the Tenures by Knights-Service in the Wars, Marriages, and Reliefs, those I confess concern the Tenant only; but those others are Tenures in *Capite* and Grand Serjeanty, these concern all others in respect of the Licenses of Alienation, and of the Wardships of Lands held of other Lords, and that all the Tenants Land is hereby become war-dable; and thirdly, in respect of the Prerogative before-mentioned; for the greater the Subjects Estate is, the greater influence they have into it, and proportionably raise more profit out of it.

In respect of the Sea, this is so by reason of the Customes, Aids, Subsidies, Tunnage, and Poundage, before-mentioned; for the Charge of these is not born by the Merchants alone, but by each Subject within the Kingdom, and that *Secundum Statum & facultates*.

For first in respect of the Exporte, the greater the Estate, the more Wooll and Wool-fells, and Leather, Lead, and other staple Commodities it exports; if that be done by the owner, he bears the immediate Charge, if by the Merchant, according to that proportion is his abatement in Price unto the owner. So it is for Goods

Goods imported, for the greater the Estate and means of Livelihood, the more each Person buys of those, and at a dearer rate. This is cleared by the Petition of the Commons in the Parliament Roll, 22 E. 3. N. 41. that the Merchants had granted to the King 40s. upon a Sack of Wooll *en Charge du Peuple, & nemy des Marchants*; and by the Statute of 36 E. 3. Cap. 11. that no Subsidy or Charge be granted to the King by the Merchants upon Wooll, without Assent in Parliament.

13 Caroli.

Par. Roll 22.
E. 3. N. 22.

Stat. 36. E. 3.
Cap. 11.

3. Hence likewise that other ground of Equity in the Writ, *Quod omnes tangit per omnes debet supportari*, receives answer; for as all have benefit by the defence, so the *Compensatio publica*, we see it come from all: the fuller Answer, is the Parliament Summons of 23 E. 1. provision against the French, who intended *linguam Anglicanam omnino debere*, Clo. 23 E. 1. M. 14. Dor. *Lex justissima provida circumspectio sacrorum principum stabilita statuit, & quod omnes tangit ab omnibus approbatur*. The Charge, as it must be born by all, so must it be approved by all.

Par. Sommons
23 E. 1.

Clo. 23 E. 1.
M. 4. Dorf.

4. If His Majesty be entrusted with the defence of the Realm, as in the great Case between the Earls of Hereford and Gloucester: It's said, that *incumbit Domino Regi salvatio Populi sibi Commiss.* and that *per Juramentum est astrictus ad providendum salvationem Regni circumquaq;* because no Man goeth to War at his own Charge; we see by that which is already said, that the Law hath provided the *Stipendia Ministerij*: with that they do not bind His Majesty to the defence and safety of the Kingdom only in point of care and vigilancy, but even in point of Charge too, I shall endeavour to prove to your Lordships and the Court. Allegiance, we know, is an Act of Reciprocation, for as it binds the Subjects to Tribute and Subjection, so therefore must it the King to the Charge of Protection, by the expence of those; *Rex ad Tutelam Legis, corporum & bonorum, erectus*: the supplies He hath for that purpose ties Him to the supportation of the Laws, the execution of Justice, 20 E. 1. In the Case before-mentioned, between the Earls of Gloucester and Hereford, it is said, That *Dominus Rex est omnibus & singulis de Regno suo Justitie debitor*; which that he is so even in point of Charge appears by His Majesties supportation of the Courts of Justice, and the Salaries, not only to your Lordships, and other the Inferior Ministers of Justice, and anciently to the Sheriffs, but likewise many other ways, 4 H. 7. Cap. 12. The King shall not let for any favour of Charge, but that He shall see His Laws fully executed, Pa. 23 E. 1. Rot. 12. Exchequer. A Clark that attended a Commission of grievances, recovered Salary from the King, although the Commission was for the Relief of that Country.

Hill. 20 E. 1.
B. R. Ro. 14.

Fortescue Cap.
13.

This I conceive to be the Reason of the Declaration in the Statute of 14 E. 3. Cap. 1. and other Statutes, that Aids, though granted in Parliament for defence, shall not be brought into example, that it might not be conceived that the Commons were to bear that Charge which principally belonged unto the King, Pat. 48 H. 3. M. 8. it recited, That whereas a late Parliament in *Articulo necessitatis pro defensione Regni contra Hostilem Adventum Alienigenarum* the Commons granted him a large Subsidy, *ultra quam retroactis temporibus facere consueverunt*. Now the King *eorum indempnitate prospicere volens*, grants, that *non cedat in prejudicium, nec in posterum*

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2. Report fo.
15. Wisemans
Case.

non trabatur in Consuetudinem, in *Wiseman's Case*. In 2 *Report* fo. 15. it is resolved, that a Covenant to stand seised to the use of Queen *Eliz.* in consideration that She is the Head of the Common Wealth, and hath the care of repelling Forreign Hostility, is not good, because, saith the Book, the King is bound to do that *ex Officio*.

Cam. 315. One Reason why the King is to have Royal Mines, alledged by all that argue for the King, is, because He is at His own Charge to provide for the defence of the Realm, which he cannot do without Money. In the *Earl of Devonshire's Case*, *Co.* 11. 91. 6. *Inst.* fo. 28. § 131. *Theſaurus Regis* is called *Nervus Belli*. For the practise, the proof of the particular Charges the several Kings have been at for the defence of all sorts, would be so tedious, that I'll omit the citing of any thing in this kind: Sir *John Davies's Reports* fo. 12. many Authorities; and in the *Treatise de Regalibus*, p. 81. *Principes totam Navigationem pro vectigalibus præstare coguntur*.

But because His Majesty, in the before-mentioned Proclamation, *Pag.* 18 § 44. is pleased graciously to profess, That He holds Himself obliged to undergo the Charge of the defence of the Realm, and of the Sea in particular, I shall spare any further Proof in this.

5. If that in the Writ, That the Sea *per gentem Anglicanam ab olim defendi consuevit*, be not answered by the *Scotch Roll* of 10 *E.* 3. before cited, which says, That the King and His Ancestors, *Maris Anglicani defensores antehac extiterunt*, nor by what is now said, if it be admitted; yet that even the Charge of this defence is born *per gentem Anglicanam* is before proved.

The Sixth, and one of the main things whereupon I shall state my Question, is this; His Majesty is in the actual Possession, not only of the Services in kind for the defence of the Land, by taking of the benefit of the Wardships, Marriages, Reliefs, Fines, and Licences for Alienation and primer Seisin, and of the Prerogatives before-mentioned, but likewise of the Service of the five Ports, unless they be released since 7 *H.* 7. for then their Service was summoned. And of the Tunnage and Poundage, and other Duties for the defence of the Sea.

It appears not by any part of the Writ, nor by any thing in the Record, that either the Service of the Cinque-Ports was summoned, or that any Money at all of His Majesties was expended either for this Service, or at any other time for the defence of the Sea.

My Lords, I desire to be understood, I do not affirm that none was expended; only this appears not to your Lordships and the Court.

All that can be inferred from the Writ, as to this purpose, is, That the Ship for *Buckinghamshire* is commanded to be at *Portsmouth* by such a day, *ad proficiscendum exinde cum Navibus Dom' Regis & Navibus aliorum fidelium subditorum suorum*; by this it appears not to the Court, that though the Ships are the Kings, that they are to be set forth at the Kings Charge, for the Charge may be born by the Subject for ought appears.

Neither, secondly, doth it appear how many these Ships were, whereby the Charge, in case it were born by the King, might in any proportion appear to be answerable to the Supply before-mentioned.

These

These other Ships *aliorum fidelium subditorum Domini Regis*, as in truth they were not those of the Cinque-Ports, so neither can they be so intended, unless it had been so expressed. 13 Caroli.

The Services of the five Ports, and Tunnage and Poundage, and other Duties, are the ordinary, the settled and known ways, by Law appointed for the defence of the Seas: The way in the Writ by Seising and altering the property of the Subjects Goods without their consent, as in the Writ, must needs be granted to be a way more unusual and extraordinary; against the Legality of it, I shall therefore thus frame the Argument by way of admission. First, That in case the Services of the Ports had been summoned, and the Money coming by the before-mentioned ways had been expended upon the defence, and they had not been sufficient; and though in this Case the Writ had been legal, that yet as now it is not. *Rylies Case* in the 10th Report fo. 139. and *Trin. 18 E. 2. B. R. Ro. 174.* adjudged; That so long as he that is bound by Tenure or Prescription is able to do it, the whole Level cannot be Seised to the Reparation of a Wall or Bank.

It's a Maxime, *Lex non facit saltum*, nor that we are to run to extraordinary, where the ordinary means will serve the turn. These Rules are often put in our Books, I intend to instance but in one or two Cases.

The Common Law is the common reliever of Persons wronged, that in *Chancery* is extraordinary, and therefore no Man can Sue there when he hath remedy at the Common Law: The ordinary Tryal for Life is by Indictment, and a Jury, when therefore this may be done, and that the Sheriff with the *posse Comitatus* is able to keep the Peace, it cannot be done by Martial Law, nor by Judgment of the King and Peers in Parliament without Indictment, as was adjudged in the Case of the Earl of *March*, *Trin. 28 E. 3. B. R. Ro. 21.*

My Lords, the reason of this Maxime of Law, as I conceive, is this; Actions extraordinary, as *extra ordinem*, and done only in times of necessity, are not tyed to any Rules of Laws, and therefore not to be brought into example; nor have any warrant, but only that of necessity, nor Rule to guide them, but what, *pro hic & nunc*, shall serve for the bringing of them about: The same Power then that may once do them, in omitting of the ordinary, may by the same Rule always do them; and so by consequence how far such Power is tyed at any time, or in any thing to any Rules of Law, I shall humbly submit to your Lordships consideration.

My Lords, I have now done with the stating of the Question: Those things whereupon I shall spend all the rest of my time, are these five.

1. Admitting that the ordinary means before-mentioned had been all used, and that they had not been sufficient, whether in this Case His Majesty, without consent in Parliament, may in this Case of extraordinary defence, alter the property of the Subjects Goods for the doing thereof.

2. In the next place I shall endeavour to answer to some Objections which may be made to the contrary.

3. In the third place, for qualifying of this I shall admit, that in some Cases the property of the Subjects Goods, for the defence of the

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the Realm, may be altered without consent in Parliament; and I shall shew what they be in particular, and compare them and the present occasion together.

4. In the fourth place, because of some Presidents of the matter of Fact, and likewise Legal Authorities that may seem to prove a Legality in this Particular of Shipping for the defence at Sea, whatever it be in the general; I shall therefore endeavour an answer to such of them as I have met withal.

And shall conclude in the last place with the Authorities in Point.

From the first, That to the altering of the property of the Subjects Goods, though for the defence of the Realm, that a Parliamentary assistance is necessary.

In this it must be granted in the first place, that the Law ties no Man, and much less the King to impossibilities.

And secondly, that the Kingdom must be defended.

As therefore the Law hath put this great Trust upon His Majesty; so when the Supplies, which by the ways before-mentioned it hath put into his Hands, are spent, therein it hath provided other ways for a new Supply, which is the first thing that I shall present to your Lordships, and this is the Aids and Subsidies in Parliament.

That amongst the *ardua Regni negotia*, for which Parliaments are called, this of the Defence is not only one of them, but even the chief, is cleared by this, that of all the rest none is named particularly in the Summons, but only this; for all the Summons to Parliament shew the cause of the calling of them to be *pro quibusdam arduis negotiis nos & defensionem Regni nostri Angliæ & Ecclesiæ Anglicanæ concernentibus*. And in conclusion, the Party summoned is commanded to be there *sicut honorem nostrum, & salvationem, & defensionem Regni & Ecclesiæ diligit*.

And in all the ancient Summons of Parliament, when Aid was demanded, the particular cause of Defence, and against what Enemy in special was mentioned.

My Lords, to gain time, I'll instance but in one or two of each Kings Reign, *Claus. 23 E. 1. m. 4. Dorf.* That the French, *ad expugnationem Regni nostri clam se maxima & Bellatorum copiosa multitudo Regnum jam invasit, & Linguam Anglicanam omnino delere proponit*.

Claus. 3 E. 2. M. 3. Dor. and *7 E. 2. M. 8. Dor.* That the Scots had entred, burnt, and destroyed the Marches, and put them to a Tribute.

Claus. 1 E. 3. pars 2. M. 6. and 22 E. 3. M. 32. Dorf. That the Scotch and French had invaded the Realm.

Claus. 7 H. 4. M. 29. Dorf. That the French were with a great Fleet *quasi in ore Thamesiæ* to invade the Kingdom, and the King to go in Person.

After this Kings Reign the form of the Summons was as now.

That these *ardua defensionem Regni concernentia*, are the Aids and means of Defence, and not the way and manner of doing it, as their Counsel therein, is clear.

In the Parliament Roll *6 R. 2. pars 2. N. 9.*

This

This of the manner and way of prosecution of the War, being given in charge to the Commons to advise upon; they answer, that this *nec doit nec soloit appertaine el eux mes al Roy.* 13 Caroli.

Rot. Parliament. 13 E. 3. pars prima N. 11. The same being given in Charge to the Commons, they pray *que ils ne sont Charge a Council Dover al choses des quel ils n'ont pas Conizance*; and so *Rot. Parliament. 21 E. 3. N. 5.* they excuse themselves, and that this belongs to the King and His Council.

And that these *Ardua circa defensionem* were the Aids, is exprest in words in some of the Summons, *Claus. 7 E. 2. M. 8. Dorf.* The cause of the Parliament to withstand the Scots, and that *in tam arduis debitis extendere manus adjutrices opportuna auxilia faciendo.*

Claus. 31. E. 3. M. 21. Dorf. That Summons *circa necessariam defensionem Regni, quum ad dictum negotium expediendum auxilium necessario habere oportet.*

Claus. 5 R. 2. M. 2. Dorf. The King being to make a Voyage *pro defensione Regni & gravamine inimicorum Regni*, which could not be done without borrowing great Sums of Money, therefore the Parliament called to advise about the Assurance.

So that, My Lords, it's clear that the Law hath provided this Parliamentary way for the supplying of the Kings wants for the extraordinary defence, and hath likewise put the Power of using it into His Majesties own Hands; for He may call Parliaments when and so often as He please.

My Lords, the Parliament, as it is best qualified, and fitted to make this Supply for some of each Rank, and that through all the Parts of the Kingdom being there met, His Majesty having declared the danger, they best knowing the Estates of all Men within the Realm, are fittest, by comparing the danger and Mens Estates together, to proportion the Aid accordingly.

And secondly, as they are fittest for the preservation of that fundamental propriety which the Subject hath in his Lands and Goods, because each Subjects Vote is included in whatsoever is there done; so that it cannot be done otherwise, I shall endeavour to prove to your Lordships both by Reason and Authority.

My first Reason is this, That the Parliament by the Law is appointed as the ordinary means for supply upon extraordinary occasions, when the ordinary Supplies will not do it: If this in the Writ therefore may, without resorting to that, be used, the same Argument will hold as before in resorting to the extraordinary, by of the ordinary, and the same inconvenience follow.

My second Reason is taken from the Actions of former Kings in this of the defence.

The Aids demanded by them, and granted in Parliament, even for this purpose of the defence, and that in times of imminent danger, are so frequent, that I'll spare the citing of any of them: It's rare in a Subject, and more in a Prince to ask and take that of gift, which he may and ought to have of right, and that without so much as a *Salvo*, or Declaration of his Right.

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The second way was Loans and Benevolences demanded by them, with promise of re-payment both for the ordinary and extraordinary defence of the Realm, and that as well of all the Subjects equally by Commission, as of some few.

Pat. 48 H. 3. M. 16. A Commission to the Earl of Leicester, and other, *contrahendi mutuum in nomine nostro de denarijs & victualibus*, and other things in *munitionem Navium ponendis & nautarum stipendiis contra hostilem adventum alienigenarum in Regnum nostrum, ad defensionem & tuitionem ejusdem Regni*, and promiseth re-payment.

Visus Compit' in the Clerk, 26 E. 1. Rot. 100. The King borrows of the Merchants 28966 l. *pro defensione Regni*, and promiseth re-payment.

H. 31 E. 1. Rot. 4, &c. and Trin. 31 E. 1. Rot. 41. Divers Sums borrowed *pro defensione*, and payment promised.

Braet. Irret. H. 34 E. 1. R. 82. 10000 l. paid by the King at one time for Money borrowed; this I confess is only *pro Arduis Regni negotiis*.

Bra. M. 11 E. 2. Ro. 1. The Scots having entred the Kingdom, *diversa homicidia, incendia & deprædationes perpetrantes*: The King being in Person to go against them, writes to His Council to provide Money, and they *diversas vias pro denariis providendis exquirentes*, resolveth to borrow.

P. 12 E. 2. Co'ia, for the same cause a Loan upon all Merchant-strangers.

Ro. Scot. 1 E. 3. M. 3. The Scots having entred the Realm, besieged divers Castles, and threatned a Conquest of England, and *quia crescit sumptuum multitudo in tantum quod Thesaur' nostrum ad sustentationem exercitus nostri nequaquam sufficit*, he borrows.

Claus. 14 E. 3. M. 8. The King had borrowed 3333 l. *pro salvatione & defensione Regni*, & vult *promptam solutionem fieri prout decet*, and now assigns it to be paid out of the Customs.

Walsingham P. 179. 44 E. 3. The King *sinistro usus consilio magnas summas pecuniæ* of all sorts, *mutuo petiit, asserens quod in defensionem Ecclesiæ & Regni illas expenderet*; but the People would not lend.

Claus. 5 R. 2. M. 12. Dorf. The King, *pro defensione Regni*, being to make a Voyage at Sea, desires to borrow Money, and a Parliament called to give assurance.

7 H. 4. Rot. Franc. Money borrowed *pro defensione*, *volens promptam & securam solutionem fieri*.

Rot. Parliament. 11 H. 6. N. 13. 100000 l. borrowed *pro defensione*, and spent, and the Parliament orders *pro securitate*.

Rot. Parliament. 15 H. 6. N. 3. 100000 l. borrowed *pro defensione* by the King.

Stat. 11 H. 7. Cap. 10. It appears that a Benevolence had been desired by H. 7. for the defence of the Realm, and wherein He went in Person.

The known Commission to Cardinal *Wolsey* for the Benevolence in March 16 H. 8. It was to withstand *infestissimos Hostes* of France and Scotland, who intended to invade the Realm, and that the Kings Coffers were now empty; and therefore they have power *Communi-*
candi

candi & inducendi, persuadend' & practicand' cum subditis Regis super amabili pecuniarum concessione. 13 Caroli.

Secunda pars Pat. 37. H. 8. Cum pro sustentatione ingentis oneris nostrorum operatum quos in presenti tam per mare quam per terram conficere, & in promptu habere cogimur ad resistendum, &c. Propellendum hostem nostrum Francorum Regem, in defensionem, tutelam & securitatem dilectorum subditorum nostrorum, quorum ille dampnum & interitum omnibus viis & modis molitur, statut' & ex consensu, & sententia Concilii nostri decrevimus aliquam opem de dictis subditis nostris petere, & eand' cum eorum benevolentia recipere, pro eorum cujuslibet facultate ministrand' nihil dubitantes quin sponte & liberalit' quisq; pro sua partitione & facultate elargiturus sit, eoq; magis, & citius, quod id totum consumat' & cedet in suam ipsorum defensionem & tuitionem; and the power is given to levy it as a Benevolence only.

By the Statute of 35 H. 8. Cap. 12. it appears that for the defence H. 8. had borrowed divers Sums of Money.

The third way was by anticipating their Rents.

Tr. 29 E. 1. Ro. 58. in the Exchequer Writs to all the Sheriffs of England, pro conservatione Regniejusq; incolarum salvatione & inimicorum depressione: That all the Profits arising of their Counties, and the Rents of all the Kings Tenants due at Michaelmas be paid at Midsummer, and allowance promised in the next half years Rent, and that this *ad tam ardua negotia necessaria alias in consuetudinem non trabatur.*

My Lords, that not one or two, but so many Kings, and of such Power and Wisdom, as in many of them were, and that in a matter of such consequence, and in times of necessity, should so far descend from their greatness, or so far prejudice their Right, as to borrow that of the Subject, who without being beholding to them they might take of right, and bind themselves to re-payment, and all without any *Salvo* of the Right, your Lordships will conceive that it can hardly be imagined.

My third Reason is taken from the incertainty of the way intended in the Writ, for the Law delighting in certainty, to the end that the Subject might be sure of somewhat that he might call his own, hath made all those things which the King challengeth as peculiar to himself from the Subject, either certain in themselves, or else reducible to a certainty, either by the Judges, Jury, or Parliament, or by some other way than by His Majesty Himself, as indifferent between the King and His People.

In this I intend not such things as are common to the King with the Subject, of which nature are the Aids for marrying the Kings eldest Daughter, or Knighting his eldest Son, for these are due to every common Person that is Lord, as well as to the King, as appears by the Statute of Westm' 3 E. 1. Cap. 35. N. 82. and are not due by any special Prerogative, but by Tenure; and yet the Common Law, for avoiding excess therein, calls it *Rationabile auxilium*; and yet even this by the Statute of Westm' 13 E. 2. Cap. 35. is put into certainty, and the cause of the making of the Statute, as therein is expressed, was because the People were grieved by paying more than was requisite, and thereby that which was reasonable became an unreasonable Aid.

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This Statute was general, and named not the King particularly; but the Statute of 25 E. 3. Cap. 11. is only in case of the King; and N. B. fo. 82. gives the reason of the making of that Statute, because the King before did distrain for more than was fit: and therefore, by reason of the excess, was restrained to a certainty as well as the Subject: Neither are the Taxes and Tallages upon Cities and Burroughs or Ancient Demesne against this.

In respect of the baseness of their Tenures before-mentioned; and secondly, because the Subject that is Lord of such Burroughs or Mannors of Ancient Demesne have them as well as the King, as appears by the Case of *New Salisbury* 33 E. 1. in the Parliament Book, and in the Parliament Roll 8 E. 2. for the Burrough of *Cirencester*.

And *Bra. Trin.* 33 E. 1. Ro. 22. and N. B. 79.

Those things which are peculiar to the King, either they be certain in themselves, as are Treasure-trove, Deodands, Wrecks, and the like, where the King is to have the thing it self; and so if it be in Money, as the Demy-Mark, when a Writ of Right; the Tenant prayeth that the Seisin may be inquired; Fines *pro licentia concord*; The tenth part of the Land comprised in the Writ of Covenant, and the Post-fine one half so much more, and Fines for purchasing Original Writs 2 s. 8 d. where the thing demanded is under 40 l. or 10 s. where 100 l. and so in proportion. Or else it is reducible to a certainty, as in all Cases where the Party is to be amerced, though he be *in misericordia Domini Regis*, yet the Jury must affirm the Amerciament; and when he is to make Fine and Ransome *ad voluntatem Domini Regis*, yet this Fine must be set by the Judges, when the Tenant by Knights-Service makes default in the Summons; *ad exercitum*, he is to pay *Escuage* for the default as a Penalty: this cannot be set but in Parliament, as I shall prove hereafter.

My Lords, to apply all to the thing in question, there is a cause of raising Money for the defence of the Realm, *non definitur in lege*; what will serve the turn if His Majesty, as in the Writ, may without Parliament levy 20 s. upon the Plaintiffs goods; I shall humbly submit it, why by the same reason of Law it might not have been 20 l. and so *in infinitum*, whereby it could come to pass, that if the Subject hath any thing at all left him, he is not beholding to the Law for it, but it is left intirely to the goodness and mercy of the King.

My Lords, I am now come into the second kind of Proofs, and that is by Authority: The Cases which in the first place I shall insist upon, will be to prove it by Induction; for if I shall prove that His Majesty without Parliament cannot tax His People for setting forth of Land-Forces for the defence, for making and maintaining of Forts and Castles for defence, for Victuals for a defensive Army, for maintenance of Prisoners taken in a defensive War, nor Pledges and Hostages given by Forreign States for the keeping of Peace; if it be so in all these Particulars of a defensive War, I shall then offer it to your Lordships, whether it can be done at all.

Before I proceed to these Particulars, I shall observe thus much, my Lords, in general, That if those that hold by Ancient Demesne, and

yet they
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not a Parliament

and Burgage, which are but base Tenures, cannot be taxed, *nisi sur grand Cause*, and that have many Priviledges in point of Jurisdiction, ease and profit in consideration thereof, as they have much less, then can the Tenants by Knights-Service and Soccage that are free Tenants, and that have no Priviledges in support of that Charge, be taxed.

And as they are not taxable *sur grand Cause* in the general, so neither in particular, for this of the defence, as is proved by that of *Escuage*; for if His Majesty, without consent in Parliament, cannot tax his own Tenant, nor proportion the Fine according to His Pleasure, when the Tenant holds the Land *ad exercitum*, for the defence of the Kingdom, much less can He do it where there's no Tenure for that purpose.

That *Escuage* cannot be set without Parliament, is first the Statute of *Rumny Mede* 17. *Johannis* in expresse words; *Nullum scutagium vel auxilium ponam in Regno nostro nisi per Commune Concilium Regni nostri*; which though it be not Printed, yet it is of Record, and Inrolled in the *Red Book* of the *Chequer*, and cited in *Matthew Paris* Pag. 343. And that as well before the confirmation of it, 9 H. 3. as since, it hath been by the Judges reported to be a Statute, and in force, appears by the Book of 5 H. 3. *Mordaum* 53. where it is pleaded and called by the name of *M. Charta*, and allowed; and *M. 19 E. 1. Finiente* 20. *incipiente B. R. Rot.* 56. in the Case of *Rulf de Tony* it's pleaded by the name of *M. Chart. Johannis Regis de Rumny mede*, and allowed.

In the Book of Knights-Fees of E. 1. time, there's a Writ cited, which went to the Sheriff of *Hereford*, thus; *Datum est nobis intelligi, quod plures sunt qui tenent per servitia Militaria de nobis qui contradic' solvere scutagia de Feodis suis, & quia scutagia nobis sunt concessa per Commune Concilium Regni nostri*: Therefore he is commanded to levy them. *Co'ia M. 5 E. 2. Ro. 4. Dors.* Many Processes issued for the levying of *Escuage* in E. 1. time, seperseded and quite released, the reason entred in the Roll; *Quia dictum servitium non fuit communiter factum*; that is, as I conceive, because it was not done *per Commune Concilium Regni*.

The Books are expresse, 13 H. 4. 5. *Banke N. B. 83. E. B. Instit. sec. 97.* My Lords, that those that hold in Soccage or Fee-Farme, or not by so many Knights-Fees as they were distrained for, were always discharged, as appears by infinite Presidents, I shall make no use of it as the manner of entring these discharges upon the Rolls; 'tis observable that he is distrained, *ac si teneret per servitium militare*, whereas he holds the Land in Soccage, *pro quibus servitium aliquod Regi exercitibus suis facere non debet*, and in some Rolls that *ratione alicujus Authoritatis*, he ought not to be distrained: Therefore, *quia Dominus Rex non vult illum in hac parte injurari, prout justum est*, the distresses are released; amongst divers Presidents for this, I shall cite but one or two, *Br. Tr. 34 E. 1. Ro. 20.* the Abbot of *Abbingdon*, and *John Arden* the *Iter Roll* of *Suffex*, 7 E. 1. *Rot. 107. of Gilbert Gifford.* My Lords, if the King might have raised Money, and Sessed Men for finding Souldiers for their Armies, this manner of Entry, as I humbly conceive, would never have been suffered.

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I am now come to the first Particular that I have instanced, that is the charging of the Subject for finding of Souldiers to go out of their Counties for the defence of the Realm. My Lords, in that I shall in the first place admit these three things.

First, that every Man after the Statute of *Winchester, secundum statum & facultates*, was to find all manner of Arms, as well for the defence of the Realm against Forreigners, as for the Peace; and that I have before proved by that of 3 R. 2. N. 36. and after by the Statute of 5 H. 4.

That upon sudden coming of strange Enemies, these are compelled to travel out of their own Counties, is the Statute of 1 E. 3. Cap. 5. and so for the appeasing of any notable Rebellion, when the King, for the doing thereof, was in Person, as appears by the Statute of 11 H. 1. Cap. 1. and Cap. 18.

Thirdly, I shall admit, that so long as they remain at home, and go not out of their Counties, that they are to have no Wages, and that the Maritime Shires for Borders upon *Scotland* and *Wales*, were not to be at the Kings Charge, so long as they remained at home in their own Counties for the preservation of them; but that they were in that case themselves to bear the Charge against Forreign Invasions, as of making of Hue and Cry, assisting the Sheriff when he took the *posse Comitatus*, and all other things concerning the keeping of the Peace.

But that the Subject is taxable either for Wages or Victuals, or otherwise for sending of Souldiers out of their Counties, though for the defence of the Kingdom, or that any are compelled to do it at their own Charge, I shall humbly deny.

The Statute of 1 E. 3. says, That in this case it shall be done, as usually hath been done in times past, for the defence of the Realm. My Lords, I will not deny, but that before E. 3d's time Commissions have issued out of the *Chancery* for that purpose; against which matters of Fact, not only to ballance them, but to weigh them down, it's as clear, that whole Armies, some of them of 30000 at the least, over and above those that were summoned by their Tenures, have been maintained at the Kings Charge, from the time they have departed out of their Counties, during the whole time of their Service, and that not only with Promises of payment, but that were paid, *Ex Thesauo Regis*, out of the *Chequer*; and many times upon fail of payment for Victuals, Wages, and other things, upon Suit for them in the *Chequer*, full payment hath been made, of which sort in most Kings Years there are many Cases.

My Lords, this is the Answer which I give the Commissions to the County, That *de facto* the King was at the Charge usually for defensive War.

By the Statute of 19 H. 8. Cap. 1. those that have Annuities of the King must attend Him when the King in Person goes for the defence of the Realm, or against Rebels: But there is a special Proviso, that they shall have Wages of the King, from the time they set out, till they come to the King, allowing twenty Miles a day, and afterwards as long as they shall remain in the Service.

Upon a Rebellion in the *North*, 28 H. 8. against whom the King intended to go in Person, Privy Seals were sent to most of the Gentry of *England* to attend the King with the best Retinue they could

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&c.

could make, and likewise to bring the Bills of their Expences, and payment promised, as appears by many of those Privy-Seals remaining in the Palace Treasury.

13 Caroli.

And besides the Indentures themselves, whereof I have seen many: It appears by the Statute of 2 and 3 E. 6. Cap. 2. that the retainer of Souldiers at the Kings Charge was as well for defensive as offensive War. And by Stat. 3 H. 8. c. 5.

My Lords, in the next place I shall endeavour the proof hereof by clear Authority, the Stat. of 25 E. 3. Cap. 8. is, That none shall be compelled to find but such as hold by such Service, if it be not by Grant in Parliament: That this was not *Introductivum Novæ Legis*, appears by the Petition whereupon the Statute was made, that it was *encounter le droit del' Realm*.

That the Common Law was so before the Statute, and likewise in case of a defensive War, appears by the Authorities following.

P. 26 E. 1. Rot. 35. Dor. The Scots entring the Borders, a Commission issued *Reignaldo de Gray* to press Souldiers in *Lancashire* and *Cheshire*; he certifies by his Letter Inrolled there, *que sans deniers prestes*, he could not procure them to march out of those Parts; and therefore order taken in the *Chequer* to send Money: That the Scots had now invaded the Kingdom, appears by *Bra. Irret. M. 26. E. 1. in Sacc'*, where Commissions are Inrolled for many Thousands to be levied for this War at the Kings Wages, *Bra. Tr. 32 E. 1. Tr. 31 E. 1. Rot. 18. Co'ia de Wardens* of the *Marches de Cumberland* and *Westmorland* writ to the Barons of the *Chequer*; That whereas the Scots lay near the *Marches* with a great Army, and that the People of the County would not march out of their Counties without Wages and Victuals, that they would provide for both.

Secunda Pars Pat. 10 E. 2. M. 26. and 9 E. 2. in Parliament, a Grant to find one Souldier for 60 days, at the Charge of the Town, against an Invasion of the Scots: now the King grants *quod hujusmodi concessio non cedat in prejudicium nec trahatur in consequentem in futuro*.

At the time when this Aide was granted, the Scots had entred the Realm, and wasted the Bishoprick of *Durham*, as appears *M. 14 E. 2. B. R. Rot. 60.*

Rot. Scoc. 12. § 13 E. 2. M. 7. § 13. The same Indempnity upon the like occasion of defence, when they found the Souldiers *ad Rogatum Regis*, and the King commanded the Chancellor to declare as much.

Cla. 13 E. 3. M. 38. Dorf. pars prima. The Abbot of *Ramsay* discharged, *pro Custodia Maritima*, in the County of *Norfolk* because he remained in his own Country of *Huntington*, *cum Equis & Armis*, to the defence thereof with this; that therefore it was not *rationi consonum* to charge him further. The same it is *Rot. Fraunc. 21 E. 3. in prima parte 1. Oxon'*, because they were *prompti & parati* at home to defend the County. *Rot. Sco.*

But the practise, as it should seem, not agreeing with the Right in the Parliament, 20 E. 3. N. 12. The Commons complain, that Commissions had issued out of the *Chancery* to charge the People

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An. 1637. in this particular, and otherwise without consent in Parliament, and pray, that they may disobey such Commissions: The Answer is, That the Commons had heretofore promised to assist the King with their Bodies and Goods, in the War with *France*, and likewise for the defence of the Realm; and that the great Lords considering the necessity, as well for defence, as the Kings Wars, agree thereto, and yet promiseth, that this which is done *en cel necessity ne soit treyt en consequens n'ensample*. My Lords, this is a full declaration of the Right, even when for the defence; and yet some practise to the contrary, before the making of the Stat. of 25 E. 3. procured the Complaints in this particular in the Parliament, 21 E. 3. N. and 22 E. 3. N. Pat. 8. H. 3. M. 4. *Falcasius de Brent. Inimicus publicus & excommunicatus*, that imprisoned the Justices Itinerants in *Bedford-Castle*, and held the Castle against the King, the King, *propter graves & manifestos excessus quibus Regnum multipliciter perturbavit*, besieged the Castle; and whereas the Clergy, *de mera gra'*, had granted the King an Aid for the doing thereof, *Rex nolens gratiam sit nobis exhibitam ad debitam retorqueri*, declared as much by the Letters Patents.

My Lords, it is here declared, that the King cannot, *de debito*, or *de jure*, take any Aid against the Subjects wills for besieging a Castle held against the King by a publick Enemy.

Rot. inquisitionem 3 E. 1. Ro. 4. Kent' coram auditoribus querelarum post Bellum Evesham & Pacem proclamata: The Castle of *Tunbridge* being held against the King, the Hundred at *Feversham* was Sessed at 15 l. *pro Insultatione* of the Castle; the Jury present this as a grievance, which the Justices would never have received, nor suffered to be entred into the Roll, if this Sess might have lawfully been made. My Lords, this Castle and Hundred they were in the same County; and being before the Stat. of *Winchester*, they are not compellable to besiege the Castle; and if they were compellable to go in Person, and with Arms, yet no Sess could be laid for the doing thereof.

My Lords, I shall only offer to your Lordships consideration the *Scotch* Roll of 20 E. 3. M. 6. the Wardens of the *Marches* of *Scotland* were to appoint *exploratores & vigiles*, which were to espy out, and to give notice of the Enemies Intendments, by the Commissions in H. 4. H. 5. & H. 6. time, they were *ad explorandum pro defensione Regni & partium sumptibus Incolarum*; but how? only *de assensu & voluntate sua prout fieri consuevit*.

My Lords, I am now come to that of Victuals, the Stat. of 14 E. 3. Cap. 9. is, That for the Wars the provision for them shall be done by Merchants without Commission, or other Power from the King, or any other Power, that the People may not be compelled to sell against their wills: That this was as well for defensive as offensive Wars, and that this was not *Introductivum novae Legis*, but so at Common Law, is, by your favour, clear.

Pat. 29 E. 1. M. 16. & 19. *ad reprimendum malitiam Scotorum*; and to repel them, Commissions to most Counties to provide Victuals; and because they refuse, therefore the King there offers them security.

Bra. Trin. 8 E. 2. Ro. 99. Victuals brought *mixtum forum patriæ pro munitione Marchiæ Scotiæ*, and their payment upon Suit adjudged. 13 Caroli.

Sometimes at *Newcastle*, sometimes at *Carlisle*, at *Barwick*, as the Wars required, were the Store-houses where the Victuals were laid, and Clerks of the Store to issue them: That the King not only paid for the Victuals, but likewise for the House where they were laid in, appears *Bra. Tr. 2 E. 3.* about the end of the Roll, *Dorsò*. The Burgeses of *Newcastle* complain in Parliament, that their Houses had been taken up long time for the keeping of those Victuals; this was transmitted to the *Chequer* by Writ, which says, *Volu- mis eis pro domibus suis prædictis sic occupatis satisfacere prout decet, & prout justum fuerit, & prout temporibus Progenitorum nostrorum fieri consuevit.*

My Lords, in the next place,

3. For the defence, when those that served with Horse, *ad vadi- monia Regis*, they lost their Horses in the Service, the owners did not bear the loss, but they were always paid for it by the King; and therefore when they first entred into the Service, the Marshal, or else the Warden of the *Marches*, who had the command of them, did set down in a Roll the Horse of each Man, and their marks, and price of each Horse, to the intent the owner, by this Certifi- cate, might be assured of the full value to be paid him in case the Horse was lost. This appears *Clo. 34 E. 1. M. 16.* where the *Custodes Marchiæ Scotiæ*, assigned *pro defensione Marchiæ*, were to do it.

Bra. Irrot. M. 26 E. 1. Rot. 105, 106. The Scots having en- tred the Realm, divers *homicidia, incendia, & alia facinora perpe- trantes*, there the Horses, *ad vadimonia*, for defence, were to be apprised.

Secunda pars Pat. 10 E. 2. M. 7. the same, and the *Scottish Roll* of *21 E. 3. M. 7.* the same *prout Moris est*: That upon Suit the Subject hath recovered accordingly of the King, are many Cases; I'll instance but in two or three, *M. 24. of E. 1. Ro. 16. Dor. Ro. Heigham*, recovered 20 Marks in the *Chequer*, *pro Equo perduto in conflictum Dover, inter homines Regis per hominum illar', & Inimicos Franciæ*; at which time the French had assaulted *Dover*, and burnt the Priory, and a great part of the Town. *Bra. Hill. 17 E. 2. pro restaur' trium Equor' perditor'*, at *Carlisle*, *9 E. 2.*

Com' p. 9 E. 2. *Richard Walgrave* recovered for Horses lost at *Carlisle*.

Co'ia Hill. 2 E. 3. for Wages, *pro restaur' Equor' perditor'*, and burying the dead when the Scots had entred the Realm at *Stanop- Park*, for one Troop.....*l.* allowed *habita inde deliberatione*, and adjudged.

4. For Castles, the Ancient Forts and Bulwarks for defence, the *Stat. 14 E. 3. Cap. 19.* says, That Merchants, without any Commis- sion or Power from the King, shall victual them so, that the Peo- ple may not be compelled to sell against their will. That Stat. in this Particular is not *Introduce Novæ Legis*, is cleared by the Case *Tr. 16. E. 1. Ro. 3. Wiltes* in a little Roll, and in a great Roll of the same Year *Ro. 19.* when in *Trespas*, by *John Evesborne* a- gainst *John Flavel*, *quia blada & garbas suas cepit*: The Defendant says, he was Constable of the Kings Castle of *the devises*, and that he

An. 1637. he had in *præceptis præd' Regno Regis quod munire faceret*, the Castle *de mortuo Stauro ut de bladiis*, and other things; and that by virtue of this Writ he took an Enquest to know where he might have best laid these Victuals, *ad minus nocumentum patriæ*, and the Jury found that the Defendant might take it *ad minus nocumentum patriæ* of the Plaintiff, and that he came to the Plaintiffs house, and offered to buy *pro denariis & ad justum Regis*; and that because the Plaintiff refused to sell, he departed from his house: Issue joyned, and found against the Defendant, and 100 Marks damages given the Plaintiff, adjudged.

There were always anciently *Visores operationum* appointed, and they upon Oath certified, that they saw the Kings Money expended, which was demanded in the *Chequer*; and for Victuals, as they were bought with the Kings Money, so when they grew stale, that the danger was passed, they were sold again to the Kings use.

My Lords, that even in times of Wars, when the Frontier Towns and Castles were besieged, and the Borders invaded, that even the King did bear the Charges, appears by the allowance in the *Chequer*.

Trin. 27 E. 1. Rot. 47. pro tuitione Castri, now Castles, *contra Scotos qui hostiliter Regnum in partibus illis invaserunt*.

M. 31 E. 1. Rot. 2. The Scots besieged Carlisle 26 E. 1. and allowance now, *de exitibus Castri*, which was the Kings.

And *M. 27 E. 1. 75. 1000 l. pro quatuor ingent.* and *Trin. 32 E. 1. Ro. 11, 12. visus compot' 28 E. 1. Rot. 71. prout justum, quia Scoti contra Regem hostiliter insurgunt*; therefore *de Thesauro Regis Barwick* fortified, & *Ro. 78. Dorso*, it appears that the Sheriff of *Yorkshire* had carryed 40000 l. *de Thesauro Regis* to those Parts.

Bra. Irrot. Pas.
34 E. 1. Ro. 72

Bra. in 17 E. 2. propter frequentes egressus Scotorum in Regnum; the Castle of *Sandall*, at the Kings Charge, fortified, & *prout justum*, allowance; and *Br'ia Hill*. that year the Castle of *Horney*, for the same cause, the Scots having entred *circum prædictum Castrum*, & *apud Lancastre*.

4 & 5 P. & M. *Dyer. 162. b.* One in execution for debt in the Fleet, who, as the Book saith, was a man very necessary for the Wars, and it was moved by the Kings Attorney *per Mandatum Consilii*, if the Prisoner may be licensed by the Queen with a Keeper, to go to *Barwick* for the defence of it or no, and it was held by all the Judges of *B. R.* and *C. B.* that the license was not good, and 13, & 297. the same cause cited accordingly to have been the opinion of all the Judges.

5. My Lords, For a Prisoner taken in defensive Wars, and likewise for Pledges and Hostages for the securing of Peace, that the charge of the maintenance of these, and the carrying them to the several places of their abode, have been always born by the Kings of the Realm, the allowances in the *Chequer* are so frequent as that I intend to cite none of them, save that for the Prisoners taken in conflict at *Dover* before spoken of, which is *Co'ia Hill. 4. E. 2. Ro. 22. Dor.* neither do I find it at any time stood upon save only 8. *E. 2.* amongst the *Bra. Trin. 8. E. 2. R. 88. Dor.* but the reason is because that after the death of *E. 1.* in the commission of granting

granting the Constable-ships of the Castle, no mention was made of the Prisoners, and yet even in that case upon a *Monstravit Regi*, a Writ of Privy-Seal is awarded for allowance, *prout Justum*.

My Lords, If in all these particulars of Souldiers, Victuals, Castles and Forts, Horses, Prisoners, and Pledges, in case of defensive Wars, the main supports of them, the Kings could not tax their Subjects, but have born the charge thereof themselves, I shall thence offer it to your Lordships to be so for the defence in general.

My Lords, The allowance in the Chequer in all the particulars before-mentioned are frequent in the case of Mines in the *Co'ia*. The profits of Silver-mines that they upon an account in the Chequer were always answered to the King, was one of the principal Arguments for the King's right unto them, and there *fol. 320*. it's held that in all things that concern the Revenue of the Crown, because they are there debated, that the Records of the Exchequer shew not only the course of the Court, but what the Law is throughout the Kingdom.

My Lords, That in Cases of War and Embassies, that the Chequer made no allowance what great Consideration appears by the Stat. of 5 R. 2. Cap. 10. that they were not allowed by the Court till the Partie brought the Great Seal, or the Privy-Seal for it.

And if a Writ of allowance come to the Chequer before the Court had examined the account, yet they never made allowance till the Court had examined it.

H. 25. E. 1. Ro. 22. licet Bre' de Allocat' pendeat de dns' 1000 l. allocandis; tamen ante allocationem factam oportet scire si pecunia illa ad opus Regis devenit, & quod ipsi doceant super hoc Curia Regis, and Trin. 25 E. 1. Ro. 47. the allowances never ingross, but by particulars.

My Lords, The next proof that I shall humbly offer unto your Lordships, is in that of borrowing of money by the King for the defence of the Realm, which, as they have usually done it, so it is as clear that not only upon Petitions, at their own pleasures, and upon grace, but likewise upon suit they have been adjudged so to do in the ordinary Courts of Justice.

Co'ia p. 31. E. 1. Ro. 41. 149 l. borrowed of Henry Sampson pro defensione totius Regni, and repayment ordered. M. 10. E. 2. Ro. 160. Grandes pecunie summas borrowed by the King for that purpose, order for repayment.

Bra. M. 3. Eliz. 3. Circa princ'. Ro. 664. My Lords, in this particular I shall cite but this one Case *Com. p. 29. E. 1. Ro. 18.* the King, *pro urgentissimis Regni negotiis & defensione totius Regni*, had seized divers sums of mony in all the Abbies, and Cathedrals, and other religious Houses within the Realm, & *quo citius commode poterit* promised payment, in the Parliament 29 E. 1. at Lincoln the King is petitioned for repayment of these monys, who promiseth payment, *Ita quod Regis Conscientia super hoc exoneratur*, and there and *Ro. 19.* divers sums adjudged to be paid, and *p. 9. E. 2. Ro. 65.*

My Lords, I shall thus humbly offer this to your Lordships, that if the King had conceived, that when himself wanted money for the defence that he might have charged his Subjects, he would never have made this answer of repayment *ad exonerandum Conscientiam*;

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tiam; for then in Equity and in Conscience the Parliament should have taken care for the satisfaction of these debts, or should at least wise have distributed part of this Charge upon all his Subjects, neither should the Parties have had full satisfaction for all their debt, but have born part themselves.

By the Statute of 35 H. 8. cap. 12. the King for the defence of the Realm had divers great loans made to him; now likewise there being cause of new defence against *France* and *Scotland* in aid of the King, they release these assurances given by the King, and likewise release to the King all Suits and Petitions concerning those monys. My Lords, it will need no application; these were general Loans, and for the defence.

My Lords, I am now come to the other Authorities for proof thereof which is by the Acts of Parliament.

My Lords, before I come to the Acts of Parliament themselves, I shall humbly offer to your Lordships the Summons — and preparatives to them.

First, The *Ardua Regni Negotia*, for which they are called, are principally *defensionem concernentia*; that these are not the way and manner of the defence and their evidence therein, but the supplies and aides for this defence, I have presented clear Proofs to your Lordships before. That these aids cannot be raised without their consents is strongly inferred in this, that the Knights of the Shire are to have *plenam & sufficientem auctoritatem pro se & communitate Comitatus prædicti ad faciendum & consentiendum* to the things in *negotiis ante dictis*: if this might be done without the consents of the Commons, this in the Writ would be needless; but that this cannot be done without their consents is cleared by the words following in the Negative, *Ita quod pro defectu potestatis hujusmodi dicta negotia infecta non remaneant quovismodo*. This, my Lords, is the constant form both of the Modern and all the Ancient Writs, and shews clearly that the Commons without their consent in Parliament are not chargeable to a defensive War.

In the Acts of Parliament I shall begin with that of *William* the Conqueror the fourth of his Reign, which besides that it is cited in the Preface to the eighth Report and Instit. fol. 75. b. and by *Ingulph*, fol. 519. and *Mr. Selden* in his *Eadmerus* p. 171. it's likewise of Record and enrolled in the Red book in the Chequer.

The words are thus.

Volumus & firmiter præcipimus & concedimus, quod omnes liberi homines totius Monarchiæ Regni nostri habeant & teneant terras suas & possessiones suas, bene & in pace libere ab omni exactione injusta & ab omni tallagio, ita quod nihil ab iis exigatur vel capiatur nisi servitium suum liberum, quod de jure nobis facere debent & facere teneantur, & concessum jure hereditario in perpetuum per commune Consilium totius Regni nostri prædict.

My Lords, The words by reason of the disjunctive, *& ab omni Tallagio*, are plain, that the King shall not exact or take away any thing of any Free-man but what his tenure binds him unto, as in words, by reason of the generality of them, it extends to cases to the defence of the Realm: that it doth so in intent, I shall endeavour thus to present it to your Lordships.

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The Military Services before-mentioned for the defence of the Realm, they are by *Bracton* attributed to the Conquerors Institution; for in his second Book fol. 36. speaking of them, he saith thus, *Secundum quod in conquestu fuit ad inventum, Plowden* in the Argument of *Thomas Tresham's* Case.

Means the Conqueror had to do it by reason of the many Attaindors of those that took part with *Harold*, and after his death with *Edgar Ethling*. That he did it in a great part appears by *Math. Paris*, fol. 8. That he put all the Clergy, which before held in *Frankalmoigne sub servitute militare*, to do service *tempore hostilitatis*, and by the County Palatine of *Durham* and *Chester* in those places of danger. In the Book of Knights Fees, in *H. 2.* time it appears by the Certificate, that they held sometimes *de veteri Feoffamento*, and sometimes *de novo*. And by some of them it appears, that the Tenures *de Novo Feoffamento* were before King *Stephen's* time, and therefore it's probable that the *vetera* might be those created by the Conqueror. The provision for Soldiers pay by Tenures was likewise of his institution, as appears by that before cited out of the *Black Book*, lib. 1. cap. 27. That in *primitivo Regni statu post Conquestum ad stipendia & donativa Militum*, out of Castles and other Lands, *in quibus agricultura non exercebatur pecunia numerata sucrescebat*.

The Policy and Provision of the Conqueror for the defence being by Tenures, when in this Act of Parliament he says, *quod nihil ab eis exigatur vel capiatur, nisi servitium suum, quod de jure nobis facere tenentur*, as I humbly conceive, shews plainly that the Subject was not otherwise to be charged for the defence, nor further than by their Tenures.

This, my Lords, further appears by other parts of the Parliament, where speaking of any thing of Charges that is to be done according to their Tenures, as that all *bene se teneant in Equis & Armis ad servitium suum integrum faciendum*. But in the next place speaking of the defence, it saith that all within the Realm *sint Fratres Conjurati pro viribus & facultatibus*, to defend the Kingdom and the Peace, *& ad judicium rectum, & justitium faciendum*, the coupling of the Defence with that of the Peace, and doing Justice, shews the personal care that all by their Oath of Allegiance ought to bear to the Common Peace and Good of the Realm.

The next Statute which I shall present to your Lordships, is that of *Runimead 17 Johannis*, the words are these, *Nullum scutagium vel auxilium ponam in Regno nostro, nisi per Commune Consilium Regni nostri, nisi ad Corpus nostrum redimendum*, and to Knight his eldest Son, and to marry his eldest Daughter: as in words this extends to the defence, because all supplies for that purpose from the subject, they are only in *auxilium* or in *subventionem expensarum* of the King, who, as before is proved, is principally bound thereto. So may the intent likewise further be gathered, first from this, that the word *Auxilium* is joyned with that of *Scutage*, which is for the defence: and likewise from this, that particular satisfaction is made by other parts of the Statute to those that had been disseised by *R. 1.* and King *John*, which were things done only for the increase of their Revenue without shew of the common defence, that both before *9 H. 3* and afterwards *20 E. 1.* this was a

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a Statute and so accounted, I have before proved, and in the Book of 5 H. 3. it is called by the name of *Magna Charta, Sans addition*. So 37 H. 3. in that solemn Confirmation observed by *Math. Paris*, pag. 1155. this of *Runimead* is confirmed by the name of *Magna Charta*; and 5 of H. 3. pag. 1220. which I note only to this purpose, that of speaking of *Magna Charta* this of *Runimead* is intended as well as that of 9 H. 3. as part thereof, and bodied both together; yet that neither of them were observed, either in King *John's* time, and of H. 3 time our Histories are full of it, and by the Popes Bulls of 12 & 13 H. 3. the Pope absolving the King from his Oath in their Confirmation, doth it, because as the words of the Bull are *Juramentum peccati vinculum esse non debet*; neither till after 29 E. 1. as I shall hereafter prove, were they at all observed in things concerning the King's Prerogative.

The next that I shall cite, are the Statutes of 25 E. 1. and the Statute *de Talliagio non concedendo*.

That of 25 E. 1. cap. 5. & 6, the grievance is for Aides and Prizes taken through the Realm for the Wars, the King grants that such Aides, Tasks and Prizes taken through the Realm for the Wars shall not be brought into any Custom for any thing before done, be it by Roll or any other President that may be found; and further grants, that for no business from henceforth that he will take such manner of Aides, Tasks and Prizes but by the common consent of the Realm, and for the common Profit, saving the antient Aides and Prizes due and accustomed. My Lords, although by the Coplative it is clear enough, that there must be common consent, and common profit concurring; and although the saving of the ancient Prizes and Aides accustomed might well enough have been satisfied in the Aid excepted in *Runimead*, and the pricing of Wines and Purveiance.

Yet to out these and all other scruples the Statute *de Tallagio* made afterwards for that purpose is general, That no Tallage or Aid shall be taken by the King, nor that any of his Officers shall take any Corn, Leather, Cattel, or any other Goods, without the Consent of the Party.

My Lords, To bring these Statutes to the thing in question, that these things cannot be done, though for the defence, the times of the making of them, and the circumstances concurring thereto, I shall present to your Lordships.

That of 25 E. 1. by the date appears was the 10th of October 25 E. 1. My Lords, the King the 12th of August before being at *Odimer*, ready to go over to *Flanders*, the Parliament being then summoned by His Letters Patents, *Rott. pat. 25 E. 1. m. 7.* taking notice of the Constables and Marshals departure from the Court in displeasure, and of the rumours of the People, that the King refused to Seal Articles sent him for the common profit, for redress of divers grievances done to the People: for the grievances, he saith, that without those things he could not have defended the Realm, and yet saith that he is sorry for it, and prayeth that this may be his excuse, as he that hath done those things, neither to buy Lands nor Tenements, nor Castles, nor Towns, but to defend himself and the whole Realm, and that if he returned again he would have all know that he had an intent to amend all those things, to

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the Honour of God, and the content of His People, and that he hath done much already, that if he dies in this Service, his Heir shall make amends. 13 Caroli.

Hereby it appears, that the grievances which procured this Statute, were for the Defence of the Realm; therefore from hence it follows, that the Aids and Taxes there mentioned were for the Defence; so likewise that the exception of the ancient Aids extends not to those of the Defence, that being the thing wholly complained of. This Declaration of the King was the 12th of August; the September after, the King being at *Winchelsey*, these Articles are sent to him, to which he deferred for the present to give His assent unto, because His Council was not there; and so sails over into *Flanders*. This Statute of 25 E. 1. is past the King beyond the Sea: The *Teste Edwardo filio nostro* at this Return, as appears by *Walsingham* p. 42. The King is desired to confirm these Articles, which in *Walsingham* p. 40. are the same word for word, as in the Statute *de Tall*. which the King then deferred.

27 E. 1. they desire it again, which the King doth with a *Salvo Jure Coronæ nostræ in fine abjecta quam cum audissent Comites cum displacencia ad propria disseverunt*, saith the Author, *Sed revocatis ipsis ad quindenam Paschæ ad votum eorum absolute omnia sunt concessa*.

That the Statute *de Tallagio*, was after that of 25 E. 1. is plain in this, by the King's going over to *Flanders* without assenting to any Articles, in September; and the 10th of October following, as appears by that Statute 25 E. 1. it self, it was made; and likewise by the Statute *de Tallagio* it self, in the King's releasing all Rancor to the Earl Marshal and Constable, who had most offended him, and that first presented these Articles to the King.

My Lords, I shall add this only, as I conceive it, it will not be proved that this King either before or after the making of this Statute, or any of His Successors since, ever claimed this absolute Power over the Subjects, as to lay Aids and Tallages upon them for the supplantation of their own private Estate, abstracted from the common defence or good. This King at this time, we see by His own Declaration, was far from it; this last Statute fully satisfied those that desired it; for as *Walsingham* saith, *ad eorum votum absolute omnia sunt concessa*. If therefore it extend not to that of Defence, I shall humbly offer it by what construction of it our Ancestors Judgments and Discretions will be freed from a great deal of Censure that were so well contented with it.

My Lords, *Magna Charta* being confirmed at the same time when the Statute of 25 E. 1. was made; and both that and the Statute *de Tall* being only Articles upon *Magna Charta*, they were all of them, as I conceive, intended in the subsequent and so often confirmation of *Magna Charta*.

My Lords, the next is the Statute of 14 E. 3. Cap. 1. that the People shall not be compelled to make any Aid, or to sustain any Charge but in Parliament. That this cannot be done for the Defence, will (as I conceive) be enforced from the words; for a great Subsidy having been granted, as well for the Wars on this side the Sea, that is for defence, as for the *French Wars*.

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It's declared, that this shall not be drawn into example, and that out of Parliament, they shall not be compelled to sustain any Charge; and then it is further enacted, That that Subsidy, and all the Profit of Wardships, Escheats, and other Profits of the Realm, shall be spent for the defence and safe-guard of the Realm, and the Wars in *Scotland* and *France*, and not other-where: So that the Statute (as I humbly conceive) all put together, bears this sense, that the Subsidies granted in Parliament, and the Wardships, being a fruit of the Tenures created for the defence of the Realm, and other Profits arising to the King by way of Prerogative are to be spent for the defence of the Realm, and the King's other Wars; but that no Aid or Charge for any of these can be laid upon the Commons without consent in Parliament.

My Lords, that the practise of this King, I mean *E. 3.* was contrary to the Statutes, and that they were not kept, appears by the Parliament Roll 15 *E. 3. N. 9.* the next year after, where the Commons shew, that their goods were seized, and their Bodies imprisoned without any Suit commenced against them.

My Lords, the next which I shall cite are the Statutes of 25 *E. 3.* and 1 *R. 3.* against Loans and Benevolences, which I shall humbly offer to your Lordships on this ground.

Ad eaque frequentius accident ad aptantur Leges.

As for my part, I have seen no general Loans or Benevolences, but they were for the Defence: So I conceive, if they were any otherwise, they are but few in respect of the others: The Common grievances therefore being by Loans and Benevolences of that nature. These Statutes, I conceive, were made against them; for these not being within the words of any of the former Statutes; as therefore the Kings might with the more colour put them in practise, so, on the other side, being equally as dangerous to the Subject, because of the displeasure by denial, procured the Statutes. That Loans for Defence were after 25 *E. 3.* counted unlawful, appears by *Walsingham, P. 179.* that 44 *E. 3.* The King *sinistro usus Consilio magnas Summas Pecunie* of all sorts, *mutuo petiit asserens quod in defensionem Ecclesie, & Regni illas expenderet*, but that the People would not lend.

My Lords, the next which I shall cite is direct in words, which although it be not an Act of Parliament, yet the weight of the Authority, by the putting of it, will appear, it's the second part of the Parliament Roll 2 *R. 2. N. 3, 4, & 5.* the Kingdom being beset with the Enemies of *France, Spain* and *Scotland*, who all three by Land and Sea invaded the Realm. The Privy-Council not willing in a thing so much concerning the Realm to take the whole carriage of it upon themselves, not desiring so soon to call a Parliament, but a little before being dissolved, they therefore resolve to assemble a great Counsel of most of the Bishops, Lords, and other great Men, and Sages of the Realm, who meeting, and finding the absolute necessity of a present preparation for defence, and that the King wanted Money to do it; what their full and final resolution in this case of extremity for the Defence was, I shall read the words of the Roll; they say, *Pur Conclusion final qu'ils ne poient cest mischief remedier sans charger les hommes de Realm quel charge ne pait de fait ne grant sans Parliament.* And therefore the

the necessity being urgent, these great Men lend Money for the present, which advise presently to call a Parliament, as well to provide for the re-payment of this Loan, as for a further Supply. It's true, my Lords, this King at this time was within age; and it's as likely that many of His Council had been likewise: *E. 3.* His Grandfather, His Privy Council, who well knew His Prerogative, and extended it as far, by reason of His great Wars, to the charging of His Subjects, as any before or since His time; and that not only the Privy-Council, but likewise, as the Record is, almost all the Prelates, as well Abbots as others, Dukes, Earls, Barons, Bannets, and other Sages of the Realm, which, as I conceive, were the Judges, should be so far from putting this in execution, as that they declare in the negative, upon full deliberation, that the Commons cannot be charged herein but in Parliament. Themselves likewise thereby being to undergo a present Charge, by lending to supply that necessity. The Authority must needs be weighty, that upon second thoughts afterwards the same was declared in full Parliament by the Lord Chancellor, and so afterwards entred upon the Roll without any qualification at all, adds further to the Authority.

13 *Caroli.*

Ultimo Februar' 3 Caroli, a Commission issued to divers great Lords, the end, as appears by the words, was for aiding the King's Allies beyond Sea, and for the defence and safety of the Kingdom and People. They were by the Commission to raise Money by Imposition or otherwise, which, without extream danger to the King, Kingdom, and People, can admit no long delay, wherein Form and Circumstances are to be dispensed with, rather than the substance lost. This, my Lords, was a Commission to tax the Subject in time of necessity for Defence. The last Parliament this Commission, as against the Law, was condemned by both Houses, and cancelled in His Majesties Presence, and sent so to be viewed by both Houses.

Philip Commynes, in his fifth Book *Cap. 8.* observing the same above all others, commends the policy of the *English* Laws and Government. And both he and *Bodin*, *de Republica lib. 6. Cap. 11.* And *Pasquier*, Advocate-General in the King of *France* his Chamber of Accounts, in his second Book *Cap. 6. § 7.* all shew this likewise to have been the ancient Law of *France*; and how the Practice comes to be otherwise, there *Pasquier* shews at large; and that the King sometimes endeavouring the contrary, found so much difficulty, that they afterwards, especially *Charles the 5th*, procured by the consent of the three Estates these Aids for Defence to be granted for three or four years together; and that this consent of the People at first was that which afterwards gave the occasion to the King to take it without consent. And therefore he concludes, that *France* being *un Relme de consequens*, that they must not easily promise any thing, though but once, which they will not be willing to permit for ever.

My Lords, I have now done with the Proofs. In the next place shall endeavour an Answer to some few Objections that are obvious both from Reason and Authority.

1. For those of Authority, 13 *H. 4.* 14, 16. *Gascoignes* opinion, That the King may Charge His People without Parliament, to a thing

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thing that is for the common Profit of the People; the thing he applies it to, is, that the King may grant Pontage and Murage.

My Lords, that the King may grant both these, and Tolls upon erection of a new Fair or Market, and Panage, I shall not deny.

The Answer I shall give to them is; first, That these Grants do charge *venalia* only, that is Goods carryed to those places for Merchandize; but that any Tax may be laid *Secundum statum & facultates*, either upon the Hundred or County, I shall humbly deny it.

It is true, my Lords, by the Conqueror's Laws it appears, that Cities and walled Towns were for the defence of the Country; and therefore by those Laws no Fair nor Market might be kept but in *Civitate*, and *Burgis Muro Wallatis*; and therefore in Doomesday, in all such it's found, that there are so many Mansions, *murales*, which by their Tenure, when need was, were bound *ad murum reficiendum*.

That no other Land that holds not by that Service is liable, appears by the Parliament Roll, 1 R. 2. *Secunda pars* N. 76. where all the Cities and Burroughs of *England* petition, that in this time of danger, they not being able with their Merchandizes to do it, that others that had Land within the Town might be made Contributaries, *avant ceo heure out port nul charge*.

The Answer is, that all, according to their Tenure, as they have anciently done, so shall they still. And if this might be done, there would have been no need of the Statutes of 2 & 3 P. & M. Cap. 1. 23 *El. Cap. 4.* for giving power to tax Men *Secundum statum & facultates* to repair Castles and Towns within 20 Miles of *Scotland*.

For the Tolls, and Pontages, and Panaiages, as there is a great deal of equity for those that receive benefit by bringing their Goods to the Markets, and over the Bridges, should contribute to the Charge that may maintain the Market-places, and the Bridges; so neither are these compulsory, but voluntary Charges; for as no Man pays but he that receives the benefit, so is none compellable thereto, but is let to his liberty.

Neither is there any colour in respect of the Town it self, to whom the Murage and Panage is granted, why they should not be charged, because the Grant cannot be but at their own Suits; for if it be not at the Suits *tot Commoditates*, the Grant is void, and to be revoked, as appears *Pat. 5 E. 3 secunda pars* M. 20.

It may be further objected, That as the Town hath intrusted the way and manner of managing of the Defence wholly, and independently unto His Majesty; so likewise, if Aids and Means, as the *Causa sine qua non*, the other cannot be effected. And therefore His Majesty should not be dependent upon the Parliament for them.

My Lords, The meer relation between His Majesty and the Parliament, that they are but one Body, hath been presented to your Lordships, and that His Majesty did exercise the *Summum imperium*; there *Bodine lib. 1. Cap. ult.* says, *ejusdemq; esse potestati tributa nova imponere, cujus est Legem ferre*; but that the *Legislative*

tive power is not in His Majesty out of Parliament, will be granted. 13 Caroli.

2. The Subjects Interest being as meerly concerned in the Defence, as His Majesties, there's no cause why they should not be willing to proportion the Aid to the occasion; so neither can the Law presume otherwise, which hath so high an opinion of the Judgment and integrity of this Court; that as it is in the *Comen* 398. it's unlawful for any Man to conceive any dishonourable thing of it.

My Lords, my last Answer hereto is, That by the Law the King hath as independent a Power to make a forreign War, as well as defensive. It will, I conceive, be granted, that His Majesty in this Case hath not power to tax the Subject; for then it would follow, that as well as to the conquering of the next adjacent Realm, so of all *Europe*, the Subject should be at the Charge, and yet the Land conquered should be only His Majesties; and yet upon this ground, in respect of the equality of the Powers, it might be done as well there as here.

Neither, my Lords, as I humbly conceive, doth this only answer the Objection, but returns upon the other side for His Majesties Highness Power to make offensive War, which for the most part causeth a defensive; by this means that should be in His Majesties Power to cause a defensive War, and to tax the Subject for the maintenance of it.

My Lords, The last Objection whereto I shall endeavour an Answer, stands thus; The Parliament is a great Body, and moves slowly, and that the cause may be such, that the Kingdom may be lost before the Parliamentary Supplies come.

My Lords, how the means of the effecting so sudden, and so great a surprize can be so secretly carried, I shall not examine it in reason, but shall hereto humbly offer these Answers.

That the Services whereby the Law hath provided for the Defence both at Land and Sea, they have the same mention of time with the Parliamentary Supplies upon the Summons of the Tenants by Knights-Service *ad exercitum*; and of five Ports 40 days warning is to be given as for the Parliament.

And so is it probable from that of *Mould*. 13 *E. 1.* it was for others that held by Sea-Service.

And anciently the Summons, *ad exercitum*, to the Ports, and for the Parliament, went out much about the same time, that the Parliament might assess the *Escuage*; and that in case the Tenures, and other Revenues, were not able to maintain the War, that the Parliament might provide for further Supply, as appears 28 *E. 1. M. 15.* 31 *E.* and 34 *E. 1. M. 15, 16.* *¶ oportet neminem legibus esse sapientior.*

The Tunnage and Poundage, when granted for life, was, that the Kings might have always a Sum of Money ready upon such sudden occasions.

In the Parliament, 4 *R. 2. N. 42.* the Commons laured payment of *E. 3d's* Debts, that they might be encouraged to lend the King in Aid of the Realm, if a sudden cause of necessity should fall out; the Answer is, that it shall be done *solong, le Petition.*

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My Lords, by this it appears, that this Objection was not then taken to be of weight; many of the Loans are in *necessitatis Articulo*.

The Authorities that further answer this Objection are great, and full in Point.

The first is that of the Parliament Roll of 2 R. 2. before cited; the business of Defence could not stay so long as for a Parliamentary Supply, yet agreed, that the Commons without Parliament could not be charged; and therefore the same Men that give the judgment presently lend Money for that purpose.

In the Statute of 31 H. 8. for Proclamations, the cause of the making of the Statute is expressed in these words; Considering that sudden causes and occasions fortune many times, which do require speedy remedies, and that by abiding a Parliament, in the mean time might happen great prejudice to ensue to the Realm; Therefore the Kings Proclamation is by that Act made equivalent to an Act of Parliament, but with a full exception of their Lands, Goods, and Chattels, which as it shews, that before, by the Common Law, the Kingdom could not, in Cases of Exigency, that could not stay for a Parliament, take or seize their Goods; so were they careful still to preserve this Right.

My Lords, after this Statute of 31 H. 8. the Maxime of *Justinian* was true in H. 8. as of the Roman Emperors after the *Lex Regia*, whereby the People transferred their suffrage to the Emperor, *quod principi placet Legis vim habet*; so at that time was that other as true on the Subjects part here, as there in the digest, *Lege 10 de regulis juris quod meum est non est universitatis, & quod nostrum est sine facto nostro ad aliam transferri non potest*.

The 7 *Pertica* of Spain, tit. 1. *Pertica secunda*, give something more to the King; for He may take from the Subject *pro necessitate Reipublice dato primus tali casu Domino rei bona lambia ejusdem, vel majoris precii bonorum virorum arbitrio*; He may in this Case take, giving a Pawn to the Subject for the assurance of a future full satisfaction.

Livy in his 20 Book, Cap. 35. *Bodine* in his 6th Book, fo. 655. affirms, That when *Hannibal* had put *Italy* and *Rome* it self, unto so great hazard; and that there was not Money left in the common Treasury, that yet the Senate, without their consent could not charge the People; but that *unusquisq;* of the Senate, *mutuo debet aliquid in usum publicum*.

My Lords, the last Authority for the answering this Objection, and clearing of the whole business, is the Commission for the Loan in the *West*, 2 Car. 4. *Pars Pat.* the words are these, Great and Mighty Preparations, both by Sea and Land did daily threaten the Kingdom, that the safety and very subsistence of the King and People, and the common Case of *Christendome*, were in apparent danger of suffering irreparably, that the Kings Treasure is exhaust, and the Coffers empty; that the business of Supply cannot endure so long delay, as the Calling of a Parliament: and inquiring into all means just in Cases of such unavoidable danger: A King is now resolved to borrow of the Subject, to enable His Majesty, for their safety, and promiseth re-payment.

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My Lords, the borrowing of Money only is the thing required, that is, for the Defence the King had no Money left, the Exigency such, that it would not stay for a Parliament; this Commission afterwards in the Parliament 3 *Car.* was questioned, upon debate adjudged by both the Houses of Parliament to be void in Law, by the Petition of Right presented so to the King, His Majesty denies it not. My Lords, from this Objection of sudden danger I come to the next, which is the third thing before offered to your Lordships, which is an admittance that the damage sometimes may be such, that the Subjects Goods without their consent may be taken from them; for as propriety being both introduced and maintained by humane Laws, all things, by the Law of Nature, being common; there are therefore some times like the *Philistines* being upon *Sampson*, wherein these cords are too weak to hold us, *necessitas enim*, as *Cicero* says, *magnum humane imbecillitatis patrocinium omnem legem frangit*, at such times as propriety ceaseth, and all things are again resolved into the common Principles of Nature.

These times, as sometimes they are only in *instanti*, and concern but some few, as in Cases of killing one another in a Mans own defence, pulling down Houses in a common Fire, making of Forts upon other Mens Lands, or with their Goods, upon sudden Assaults; so sometimes they are longer in continuance, and larger in extent, and concern the whole Kingdom, as it is in times of War, *quando agitur pro aris & focis flagrante bello*.

And as on the Particulars before-mentioned, which are but for a short time, and that concern some few only, the Law hath no power for that time, nor on any times any property; so in the latter it loseth this power for a longer time, and over all.

A Dissent upon Disseisin in time of War takes not away the Entry of the Disseisee, *Litt' Sei' 412.* no plenary after the six Months barrs not the Patron of his *Quare impedit*, upon a Presentation in time of War, 43 *E. 3. 2. Imp. 135. W. 31.*

And in a Writ of Right, where the Seisin makes the Title, the taking of Esplees must be alledged to be done *tempore Pacis*, the Law allowing no Estate in such times, but calls it an occupation in time of War, *Litt. Sei' fo. 12.*

And as *inter arma leges silent*, so that of *Brac' H. 4. fo. 240.* that *tempus guerr' est tempus injuriæ* is likewise true; for after the War is ended, the Law, as not having any cognizance of things then done, gives no remedy for wrongs in that time sustained, as the Case is adjudged in the Roll of Rent, 7 *E. 1. inter placita de querelis Willielmum Parleton queretur de Petro Rardinum quod ipse die Mercurie antefactum. St. Tho. 46 H. 3.* came to the Town of Cleve, and took of the Plaintiffs Goods three Oxen, four Cows, and three Heifers, and yet detains them; the Defendant alledgeth the Pardon of *H. 3.* of *omnes transgress' factas ratione turbationis tunc in Regno existentis*, and that it was *tempus guerr'* when the Goods were taken; the Plaintiff replies, That the King can pardon only offences done to himself, & *non transgressionis aliis illatas*, the Defendant rejoyns that *tempus illud* was *tempus guerr'*, & *non tempus Pacis*, and upon this the Issue is joyned. The Jury find, that when the Defendant took the Goods, *fuit tempus Belli*, & *non tempus Pacis*; and therefore it was adjudged for the Defendant.

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Tempus Belli, when property ceaseth, is not upon every intestine or defensive War; but only at such times when the course of Justice is stopt, and Courts of Justice shut up; and that this is that *Tempus Belli* is the Institutes Sec. 412. p. 39. E. 3. B. R. Ro. 49. the Attainder of Treason of Thomas Earl of Lancaster reversed the Error assigned, *quia tempore Pacis maxime cum per totum tempus predictum Cancellarie & alia placit' Cur' Domini Regis apte fuerunt, & in quibus Lex cuicunq; fiebat prout fieri consuevit; nec predictus Dominus Rex in tempore illorum cum Rex illis explicatis equitavit.*

That there were greater Armies a foot on both sides in this business, when the Earl was taken at *Borowbrigge*, our Histories are full; but yet it was not that *Tempus guerra* intended by the Law, because the Courts of Justice were open, and the King, with Banners displayed, was not in Person in the Field.

My Lords, in these times of War I shall admit, that this Writ is legal, and not only His Majesty, but likewise every other Man that hath Power in his Hands, may take the Goods of any within the Realm, pull down their Houses or burn up their Corn, to cut off Victuals from the Enemy, and do all other things that conduce to the safety of the Kingdom, without respect had to any Mans Propriety.

12 H. 8. 2. Br. Trans' 406. 8 E. 4. 23. That in such times a Subject may make a Bulwark in another Mans Land, and that the Laws already established are silent at such times for any Law to be made: And although in that foreseen and lingring War of *Hannibal's*, whereof I have before spoken, the Senate could not charge the People; yet when there was a *tumultus Gallicus*, that is, when the *Cisalpine*, their Neighbours, on the sudden (as sometimes they did) assaulted the City; by the same Author the Case was otherwise.

My Lords, besides this sudden and tumultuous War, which shuts the Courts of Justice, and brings His Majesty in Person into the Field, and wherein Propriety ceaseth: The Law likewise takes notice of other times of War. As when His Majesty, upon just cause known to Himself, by His Proclamation proclaims War against any Forreign State, and likewise the Law takes notice of the effects thereof: That is, that no Subject of such Prince or State is capable to prosecute any Suit, though but in a Personal Action, in any His Majesties Courts; and likewise that then it is lawful for any His Majesties Subjects to seize and keep to their own use the Goods of the Subject of any such Prince or State, as the Books are adjudged, 7 E. 4. 13. 3 H. 8. Br. Propertie 38. 22 E. 3. 16.

My Lords, it appears not by any thing in the Writ, that any War at all was proclaimed against any State, or that if any His Majesties Subjects had taken away the Goods of any Princes Subjects in *Christendome*, but that the Party might have recovered them before your Lordships in any of His Majesties Courts; so that the Case in the first place is, whether in times of Peace His Majesty may, without consent in Parliament, alter the property of the Subjects Goods for the defence of the Realm.

Secondly,

Secondly, The time that will serve the turn for the bringing in of the supplies and means of the defence, appears to your Lordships judicially by the Writ, that is seven months within four days; for the Writ went out 4. *Aug.* and commands the Ship to be at *Portsmouth* the place of the Rendezvous the first of *March* following; and thereby it appears that the necessity in respect of the time was not such, but that a Parliamentary consent might in that time have been endeavoured for the effecting of the supply.

Thirdly, Yet in the third place it is averred, that *salus Regni periclitatur*, and that was the cause of the issuing of the Writ, and this by the Demurrer if it should be confessed.

Yet this is but a general, how or in what manner *periclitabatur non constat*. By the Law the Defendant may have a Protection when he is in *negotiis Regni*: but when he will make use of it, it's not allowable in that generality, but he must shew in particular in what Town, or Castle, or other particular Service he is in, that so the Court may judge whether the cause be sufficient, yea or no; and yet is that His Majesties Writ too, as well as this in question: see the Books for it 36 *H. 6.* 39. 28 *H. 6.* 1. Yet in the fourth place, If your Lordships shall give any heed to this general, as to the particular of Pirates infesting the Coasts and preparations further *ad Regnum gravandum*, mentioned in the Writ, the case then, as I conceive, is this.

In a time of Peace His Majesties vigilancy foresees a danger likely to ensue, the supplies for prevention of this danger will serve if brought in seven Months after within four days, whether in this case without their consent in Parliament His Majesty may alter the property of His Subjects goods.

Mr. St. John's second days Argument.

MY Lords, I have now done with the defence in general, and in the last place I shall endeavour to prove that this of the Sea hath no such peculiarity in it, but that it will fall within that of the defence in general.

Wherein in the first place I endeavour an Answer to some Objections, both from Authority and Reason, that may seem to prove a right. And secondly, to some Presidents concerning the use and practice; in those of the first rank I shall begin with *Danegelt*.

It may be said, that the *Danes* infesting the Realm, that *Ethelred*, for the resisting of them, first by his own Authority laid this upon the Subject, and made it an annual Charge.

Secondly, That after the conquest, they seldom infesting the Coasts of the Conqueror, took it not annually as at the first, but at such times only as it is in the *Black-Book*, lib. 1. Cap. 11. when *ab exteris gentibus Bellum, vel opinioniones Bellorum insurgebant*.

And *Thirdly*, That after *H. 2.* time the Kingdom being altogether freed from the *Danish* Invasions, although the *Danegelt* both lost the name and use, it never after his time being taken by Hydes of Land as before; that yet the succeeding Kings by the same Authority did lay other Taxes upon the Subject for defence of the Sea.

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My Lords, For Answer, in the first place I shall observe this only by the way, that the best and certainest Authorities for the *Danegelt* agree not what it was.

I mean the Laws of *Edward* the Confessor *Cap. 11.* and the *Black Book*, for the Confessors Laws say, that it was one shilling upon every Hide of Land, and the *Black Book* two Shillings, by which it should seem that it was little in use in *H. 2.* time, nor much known.

That *11th* Chapter in the Confessor's Laws, where this is mentioned, was no part of the ancient Laws themselves, but something afterward added appears by the words themselves.

First, It speaks of the freedom which the Church in the first Institution of it had, which freedom, we know, was not lost till after the Conquest, and likewise of the granting of it to *William Rufus* by Parliament; and therefore it should seem to be inserted in those Laws afterwards out of the Laws of *H. 2.* for this *11th* Chapter, and that of *Danegelt* in *H. 2.* Laws are the same *de verbo in verbum*, as appears in *Hoveden, fol. 344.*

But admitting the thing, I shall endeavour answers to each part of the Objection, as first, That the *Danegelt* was granted in Parliament.

Mr. Camb. Britt. p. 142. observed that the *Danes* first infested the Coasts *Anno Dom. 800.* and, as his words are, with such Hurly Burly, as the like was never heard of, made havock of all, razing of Cities and burning of Churches, and for their continual Piracy had got the name of *Weccingi*, that is Pirates as the Pirates.

The *Danegelt* first began in *Ethelreds* time, almost 200 years after the *Danes* first Invasion, for he began his reign *Anno Dom. 978.* That provision for Sea-defence was made in the interim after 800, and before *Ethelreds* time, appears by the many Sea-fights of *Alfred* and other Kings made within them: that this provision was usually in Parliament, is probable from that of *Ingulph, London Print, fol. 488.* where, *Anno Dom. 833,* which was 33 years after the *Danes* first Invasion, a deed to the Abbot of *Crowland* is dated thus *Coram Pontificibus, Proceribus, & Majoribus totius Angliæ in Civitate Londoniæ, ubi omnes congregati sumus pro consilio capiendo, contra Danicas Piratas littora Angliæ assidue infestantes:* if King *Ethelred* by his own Authority might have imposed this, it's like some of his Predecessors, the case so necessarily requiring it, in almost 200 years space would have it done before his time.

That this of *Danegelt* was done in Parliament the words carry as much, for the words of the Law are *dansgeldi redditio primitus Statuta fuit*, a word most proper for the Parliamentary Authority.

But fully by the Laws of that King, I mean *Ethelreds* times, in *Mr. Lamberts Saxon Laws, fol. 85.* there *ex sapientum suorum Consilio* peace is made with the *Danes*, and a certain sum of money in present granted to the Army, as our Historians observe. The *Danes* by composition were to send away their whole Fleet saving 45 Ships, which were to remain to defend the Kingdom against other Enemies, and the King was to maintain these Ships at his Charge: that the *Danegelt* was paid to the *Danes* for this defence many of our Historians observe. My Lords, That at the same Parliament this was provided for, appears by the words of the Law, *Si quis igitur*

igitur post hac Navalis apparatus in Anglia præd. fecerit, hic nobis auxilium ferat exercitus nosq; ei (quamdiu in fide manserit) quæ ad commeatum supputent paravimus per omnia, that this was a Parliament, as the words shew it, so is it held in the Preface to the 9th Rep. If this was not the Danegelt, yet this is clear, that in that King's time then promised *contra navales apparatus vias*, made by Parl. Huntingdon, fol. 265. London Print: *Primum statuerunt Angli in fausto concilio quod ipsi Danis censum persolveret Regibus, namque nostris modo persolvitur ex consuetudine quod Danis persolvebatur ex ineffabili terrore*, that Danegelt, which after the Conquest was paid to the King, we see by that Author *primum statuerunt Angli; statum Anglorum*, must needs be by Parliament.

If the Danegelt in time of such great danger was not imposed without Parliament, it will strongly make against those that shall object against it.

Secondly, The Danes having quitted the Realm, that the Danegelt was released by Edward the Confessor is affirmed by Ingulph. fol. 510. and Hovedon, fol. 253. and all our later Historians. That of Ingulph, my Lords, alone is without all exception who lived in those times, for he was brought up in England in the Confessors days, and therefore knew what he wrote. He afterwards went over into Normandy, and was the Conquerors Secretary; came over with him to the Conquest, and at his own charge maintained twelve Horses; he was so great at Court, that as himself writes, fol. 514. *quos voluit humiliavit, quos voluit exaltavit*; and p. 518. a Charter of the Conquerors to the Abby of Crowland was made *ad petitionem familiaris mei Ingulphi*, and therefore in all likelihood would not report this partially against the King.

My Lords, That we are not to put out our Fires and ringing of the Coverfew Bell, we have no other Law for it but disuse, and the testimony of Historians that H. 1. released it.

For that of the Black Book, that William the Conqueror retained it *quando Bella, vel opiniones Bellorum insurgebant*, as that Book is mistaken in the thing, saying it was two Shillings on every Hide, being in truth but one; so it is possible he might mistake in the other too: That it was released *in æternum* is apparent; that many things were done *de facto*, to the infringing of the liberty of the Subject, both in his time, and of H. 1, and H. 2. too, it is clear by our Historians; and if it were not released before, yet that King Stephen released it, is written by Huntingdon, fol. 221, Hoveden, fol. 276. *hoc Deus voluit* say these Historians, *sed nihil horum tenuit*, and as our Historians all agree, that after H. 2. time, in whose Reign the Black Book was compiled, it was never paid, so may it be collected out of the Red Book, for all or most of the Aids and Escuages in H. 2. and King John's time being there mentioned in 8 H. 2. *quod Danegeldum assessum fuit*, but after that, neither in his time nor of King John's is any more mention of it.

Sir Henry Spellman in his Glossary, that when it was taken in the Conquerors time, and since that it was *consulti Magnatibus Regni & Parliamentari demum autoritate*. My Lords, In the last place, If the succeeding Kings *mutato nomine*, only have in lieu thereof laid other Taxes upon the Subject, they must then hold proportion with that of Danegelt, that is, that they have been equally set upon all the

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the Inland Towns throughout the Kingdom as that was. 2. Upon every Hide of Land: And 3. Likewise in time, and that there was no intermission but that in R. 1. and King John's times which were active, that then it was put in execution.

Clo. 15. *Johannis m. 3. Dor. § 7.* and *Matthew Paris p. 312, 313.* The Pope had granted the Crown of England to the French King, who was ready to invade the Realm; great provision of Shipping was made *ad liberationes Regis, & ad stipendia Regis.* So far was this King, in this time of necessity, from imposing any aid upon the subject for the Sea-service, as that he himself bore the Charge.

My Lords, The next authority from the right which I shall insist upon, is that in the terms of the Law, *fol. 114.* in the Title of (*Hydage*) the taxing by Hides was much used in old time, and that chiefly in King *Ethelred's* days, who in the year 1006, when the *Danes* landed at *Sandwich* in *Kent*, taxed all the Realm by Hides; and every 910 Hides of Land should find one Ship.

My Lords, My first answer is, That this was done when there was a formidable Enemy, and which soon after conquered the Kingdom, was upon the Shore, as by the Book appears, and therefore likely that the Courts of Justice were shut, and that the King was in Person in the Field.

Secondly, This was but *actus unicus*, and even by the Common-Law that so easily admits of Customs, it's *actus Binus* that hath any colour *inducendi consuetudinem.*

Thirdly, It appears not by any thing in the Book, but that this might be done by Parliament, many of the antient Acts of Parliament are *statuit Rex, vult Dominus Rex.* And whereas the Book saith, taxing by Hydage was much used in old time. That these were by Parliament appears both by use and authority, expresse in Print. *Domesday* in *Barkshire*, *quando geldum dabatur communiter per totum Barkshire dabat Hydum 3 s.* there we see Hydage dabatur, *Matthew Paris, p. 780.* many *Caruragia* and *Hydagi* recited in Parliament that had formerly been given to that King in Parliament.

Bracton in his second Book, *fol. 37.* is expresse in the Point, that they cannot be taken but by grant in Parliament; his words are these, *Sunt quedam communes præstationes quæ servitia non dicuntur nec de consuetudine veniunt, nisi cum necessitas intervenerit, sicut sunt Hydagia & Caruragia de necessitate & ex consensu totius Regni introductæ, Rot. p. 8. b. 3. m. 4.*

My Lords, The next authority I shall insist on, is the case of the Abbot of *Roberts-Bridge* in *Kent*, which because *prima facie* it seems to be in point, I will put it at large.

M. 25. E. 1. *fniente C. B. R. 77.* The Abbot brought a *Replevin* against *Adam de Brigland* and others for taking his Cattle, the Defendants avow in these words, *dicunt enim quod occasioneurbationis inter Regem & Regem Franciæ subortæ assignatus fuit Will. de Leyborn ex parte Regis ad Custodiam Maris faciendam, ratione cujus custodiæ faciendæ Terra & Tenementa hominum ejusdem Comitatus agitata fuerunt ad Custodiam faciendam,* and the Abbot was seised 22 E. 1. at 75. 23 E. 1. at 135. and 24 E. 1. at 155. *ad prædictam Custodiam faciendam,* and because he resisted to pay that, the Defendants being Collectors for the Town distrained the Abbot. The Abbot in Bar of this *Avoury* says, that for his Lands he was assessed to find a Horse

a Horse and Man *in subsidium Custodiæ prædictæ*, and that he found this Man and Horse accordingly, *ad eandem custodiam faciendam*, and therefore demands Judgment, *si una & eadem occasione Custodiæ prædictæ*, he ought to find the Horse & *nihilominus prædictam pecuniam solvere*. The Defendants maintain their avowry, and say, that the Abbot had divers other Lands within the Town, and that he was seised for them for money, and that he was not seised for those for the Man and Horse, therefore issue is joyned and day given, without any more thereupon that I have seen.

My Lords, Besides the Authority of it in point, these two things may further be objected from this Case.

The common use that 22, 23, 24 E. 1. the County was agisted *ad Custodiam Maris*, and likewise to find Land Forces.

My Lords, For the last I have before admitted, that by the Statute of *Winchester* this may be done, for the service was to be performed in *Kent*, the same County where the Land lay.

My Lords, Because this Case *prima facie* hath some shew of Authority in point, I shall endeavour a full and clear Answer to it.

By the case it self it appears, that the Sesses were in time of War, the words are *occasione turbationis inter Regem & Regem Franciæ*; neither was the War with *France* only at that time, but likewise with *Scotland* and *Wales*, and all the effects of War.

The *French* had landed in divers parts of the Realm, and in particular 23 E. 1. in this County of *Kent*, and had burnt the Priory and the greatest part of *Dover*; *Dover* Haven was shut up for a great part of that time, the goods both of the *French* and *Scotch* seized throughout the whole Kingdom, the Lands of all Priors Aliens seized, and those that were upon the Maritime parts removed, and Natives put in their Houses, and all Strangers whatsoever that landed within the Kingdom to be arrested: all these, if any of them shall be denied, will be made good, not only by our Histories, but likewise by the publick Records of the Kingdom: so that my first answer is, that these Sesses were in time of an actual defensive War from the two next and greatest States unto the Realm.

My second Answer is, that it appears not at all by any thing in this Case, that these Sesses were made by any Authority from the King, for the words are only in the general, that the County was agisted, and that the Abbot himself was agisted, but says not by whom or whose Authority.

That it was not by the King's Authority appears by *Leyborns* Commission, appointed *ad custodiam prædictam faciendam*, as the words of the case are; for by his Commission whereby he was to do this, which is *Rot. vas. 22 E. 1. M. 8*. He was so far from having any power to Tax the County hereunto, that he is Comanded for Victuals, Arms and other things that he shall need in this business, that they shall pay those from whom they shall have any such thing, which likewise is entred in the *Co'ia 23 E. 1. Rot. 77*.

My Lords, That there were Parliaments in every one of these years appears by the Summons, and those in words not usual; for the great Fleet of *France* being mentioned, and that the *French* did intend *Linguam Anglicanam omnino delere*, they were now

An. 1637. called *ad tractandum Ordinandum & faciendum nobiscum*, and the Lords, & *aliis incolis Regni qualiter sit hujusmodi periculis obvian-*
dum, as it is in the Close Roll 23 E. 1. M. 4. *dors.* and 24 E. 1. M. 7. *dors.*

My Lords, That accordingly order was taken *cum incolis*, and that the Gentlemen and other Inhabitants by way of By-law and agreement amongst themselves did make provision in this particular, I shall endeavour to prove to your Lordships, that it hath been done at other times, and such By-laws good, appears in 14 E. 2. B. R. Rot. C. 60.

The Scots entring *Durham* and a By-law was made by the Inhabitants for raising mony, and one that refused it was adjudged to pay it. Besides, *Leyborn* who was Admiral of all the *English* Fleet, there were *Custodes Maris* in each Maritime County; these as appears *Co'ia*. 24 E. 1. Rot. 78. *dors.* were chosen by the Commonalty of each County.

And that these together with the Sheriff and Inhabitants did make Orders for those things appears by the *Co'ia* 23 E. 1. Rot. 79. where Writs are directed to the Sheriff of *Kent*, and all the Sheriffs of other Maritime Counties, commanding them, that *Circa Maris Custodiam visis presentibus Milites, & Potentiores liberos homines de balliva tua evoces, & cum ipsis provida circumspeditione deliberes*, how he should do it. This, I conceive, is pressed in point, and the practice grounded upon that in Parliament *ad ordinandum cum incolis*.

My Lords, My third Answer to this Case is, that these Sessers were for Land service only, and not for Shipping.

And this appears first by the Case it self, for the Abbot in Bar of the Avowry says, that he was sessed to find a Man and Horse *in Subsidium Custodie predictæ*, which must be for Land Service, and therefore demands Judgment *si uno & eadem occasione Custodie predictæ*, he ought both to find the Horse and pay the Sess.

My Lords, This is not denied by the Defendants, but they say that the Abbot had other Lands, and that this Sess was for those other Lands; so that it's admitted that the Sess for the Horse, which must be for Land-service, and that for which they avow were both for the same Cause, all the difference is, whether the Sess were upon the same Land or not?

My Lords, If the Sesses for which the Defendants avow had been for Shipping, they might have admitted all that the Abbot had said in Bar of their Avowry, that is, that notwithstanding he found Arms for Land-service, that yet he might for the same Land have been sessed again to the finding of Shipping. Neither do I doubt but that the Parties in the actions now before your Lordships do find Arms, and yet they are sessed for the Shipping, and that it will be stood upon by the other side, that the finding of Arms for Land-service excuseth not for the Shipping.

But it may be said, that the very words are, that the Sesses were *pro Custodia Maris*.

My Lords, By divers Records it appears expressly, that the Custody of the Maritime parts by Land is called *Custodia Maris*.

Claus. 23 E. 1. m. 4. *dors.* A Writ directed *Collectoribus pecunie ad Custodiam Maris* in this County of *Kent*, commanding them, that
 in

in respect that the five Ports were at the charge of Shipping *quod* 13 Caroli.
quieti sint de Custodia Maris facienda, which must needs lye at Land.

Co'ia 24 E. 1. Ro. 79. A Writ to *William Bonill & Sociis suis ad Custodiam Maris in Com. Suffolk assignatis*, and yet all that they are to do in that Office is for defence at Land; so Tr. 31 E. 1. n. 20. Co'ia. This *Custodia Maritime* how it is to be done appears Rot. Parliament. 46 E. 1. n. 49. and by the Statute of 5 H. 4. Cap. 3. It is to be done as heretofore it hath been done according to the Statute at Winchester.

5 H. 4. cap. 3.
nata.

My fourth Answer to this Case is, that the Plaintiff was a Clergy-man, for the Clergy having denied in Parliament to aid the King as the Laity did this year, and at this time they stood at the King's disfavour, and in H. Term as appears Co'ia H. 25 E. 1. Rot. 17. the King Commanded all his Courts of Justice, that if any Clergy-man was Plaintiff in any Action *quod nullum ei fiet remedium*, and therefore *Walsingham*, P. 41. in his *annatis conclusio* of this year of 25 E. 1. says thus, that it was *clero Angliæ importabilis, quia de protectione Regia est exclusus, & per Regem nihilominus deperdat*.

But my Lords, if I should let all go that hath been said, yet under your Lordships favours, the Case is of no authority at all; for admitting that the Sesses were for Shipping, and that by the King's authority, yet had the Plaintiff no reason to put himself upon the Point of Law, when the matter of Fact would help him.

For the Plaintiff says, that he had been sessed before for those Lands; the other Part says no, but that it was for other Lands, and upon this the issue is joyned.

Nay, my Lords, if there be any Authority at all in the Case, under favour it's strong the other way.

For if the Sesses were for Shipping, the Abbot says, that before he found Arms for the Land-Service, and demands the Judgment of the Court, if therefore he ought to pay this Sess too. The other part, if the Law had been clear, might have demurred thereupon, so that the Authority sways this way, that none for the same Land are chargeable for Arms at Land, and for Shipping too.

My Lords, Not only for the clearing of this Case, but of all other things that concern it, either in the meer right or matter of Fact before 29 E. 1. that before the Parliament at *Lincoln*, 29 E. 1. all things concerning the King's Prerogative and the Subjects Liberty were altogether upon uncertainties.

The Statutes of *Runimede*, of *Magna Charta* and *Charta de foresta* had been confirmed at least eight times, from 17 John unto 29 E. 1. and yet not only the Practice, but likewise the Judgments in Courts of Justice were clear contrary, to the plain both words and meaning.

By the second Chapter of *Magna Charta* a Baron *pro Baroniam integra* was to pay but 100 Marks for his relief, the practice and process out of the Chequer till 29 E. 1. was always for this relief 100 l.

M. 28 E. 1. Rot. 34. Co'ia after the death of *John Gray* that held *per Baroniam*, the question was whether he should pay 100 l. as the Record says, *Prout ante hæc onerari solebant*, or only 100 Markes

An. 1637. *propter Confirmatione Mag. Chart.* and this the Court would not determine before they had consulted with the King, and yet the statute of *Magna Charta* had been confirmed but 25 E. 1. and likewise the same year, as appears by the Statute *de Articulis super Chartas*.

Co'ia M. 32 E. 1. Rot. 26. Phillippe Marmion died 23 E. 1. and 100 l. paid for his relief.

It was now 32 E. 1. in question whether 100 l. or 100 Marks should be paid, and accordingly adjudged but 100 Marks. The Judgment is thus entred *sciendum enim quod fines istæ* of 100 Marks *admittuntur, licet hætenus* they were always 100 l. because the King had confirmed *Magna Charta* 29 of his Reign, and by his Writ had Commanded the Courts to inroll it, and would have it *de cætero in omnibus suis Articulis observari*. My Lords, of this kind there be many Cases.

The Charter of the Forrest, *Cap. 10.* is *nullus de cætero amittat vitam vel membrum pro venatione nostra*, and yet against the plain letter and meaning, *Co'ia Tr. 27 E. 1. Rot. 44. Adam Gower* of Scarborough, as appears, had in this Kings reign been beheaded *pro venatione* in the Forrest of Danby; and now an Inquisition went out to find what Lands and Goods he had, and then upon the return the question was, whether his Land was forfeited and should escheat upon such an Attainder, and resolved that his Land was not to be forfeited. *P. 22 E. 1. Rot. 48.* The King's Shepheard had put the King's Sheep into a man's ground who had distrained them, and for this Procefs went out of the Chequer to punish the man, who there pleads that he knew not they were the King's Sheep.

And there *Rot. 51. Dorf. Lessee* for life of a Mannor of the Kings with the Advowson accepted, by presenting to the Advowson, the Court declared that he had forfeited the Mannor it self.

By these Cases it appears, that neither the Practice nor proceedings in the Courts of Justice in these times, in things between the King and the Subjects, are so much to be relied upon as the words of the Law.

Obj. 4. My Lords, It may further be objected, that at the Common Law, before the Statutes of *Winchester*, the King might compel the Subject to find Arms for defence of the Land, and therefore by the same reason he may charge them to find ships for defence of the Sea.

My Lords, not granting the thing, yet for the present admitting it, I shall thereunto give these Answers.

1. That His Majesty by the Tonage and Poundage, and other duties at Common Law, before-mentioned, hath a particular supply for that of Shipping, but hath nothing in particular for the other of Armes, and therefore that may with more reason be laid upon the Subject than the other.

And yet for one of the principal things in that Statute of *Winchester*, that is, for Watching and Warding, the Kings before that Statute had a particular and certain farm or sum of money of each County for the doing of it, which after that Statute the County was discharged of, because by that Statute the County took the charges of doing it upon themselves, as the Cases are,

Co'ia

Co'ia H. 20 E. 1. Rot. 10. and Br. Tr. 33. E. 1. Rot. 23. dorſ. 18 l. pro Can. and 16 l. pro Northumb.

13 Caroli.

My ſecond answer is, That each Subject, and that *Secundum ſtatum & facultates*, is already chargeable for that of Ships, as hath been before proved; and therefore if he be chargeable both in Money and kind too, the charge is double in the one, and but ſingle in the other: Neither would it hold proportion with theſe Caſes of Watching, where the County was diſcharged of Money, when they took the things in kind upon themſelves: And therefore this Objection cannot, as I conceive, be made, unleſs His Maſteſty firſt quit all the before-mentioned Duties upon Merchandize.

3. My third Answer is, That in that of Arms there is only *mutatio ſpeciei*, changing of Money into Arms, for they remain the Subjects ſtill in property, and are in his own cuſtody; he may ſell them, or imploy them at his Pleaſure for his private uſe.

But in this way of Shipping there's *Oblatio Rei*, in reſpect of the Victuals and Mariners Wages for 26 Weeks.

4. My fourth Answer is, That that of Arms is not only for the Defence againſt Foreigners, but in the Watchings and Wardings upon Hue and Cry, and otherwiſe, to keep the Peace within the Realm, and for the execution of Juſtice, by aſſeſſing the Sheriff, when he ſhall have cauſe to uſe the *Poſſe Comitatus*, and otherwiſe; all which do fail in the other.

And as the uſe of Arms is more general, ſo are they for the more immediate Defence of that Element, wherein we have our moſt uſual and certain livelihood.

And yet the ordering of theſe for 300 years and upwards, was by Authority of Parliament.

Laſtly, my Lords, in reſpect of the Victuals and Mariners Wages to be found for 26 weeks; the Caſe in queſtion, as I conceive, cannot be compared to that of Arms, but rather to that of taxing the Country for finding of Souldiers to go out of their Counties.

5 *Obj.* My Lords, the next Objection that I ſhall endeavour to give answer unto is, That it is in His Maſteſties Power, for the ſafety of the Realm, to ſhut up the Ports and Havens of the Kingdom, and thereby to make a general ſtoppage of all Forreign Trade: And therefore, as His Maſteſty may anticipate gain, by barring Men from the exerciſing of their Callings, ſo by the ſame reaſon may He take ſomething away.

My Lords, my firſt Answer is, That the Law therein doth truſt the King only with that, which being done, is moſt to his own loſs, as in reſpect to the Cuſtoms, and other Duties, this of prohibiting Forreign Trade would be.

My ſecond Answer is, That this cannot be done but in time of War, and imminent danger: and that this Objection therefore will not be reaſonable, until the other be put in execution.

6 *Obj.* The laſt Objection is, That in divers old Charters of Liberties and Exemptions, the Patentees are freed *de Danegeldo & Navigio*; hereby is implied a Right. My Answer is, From the ſame Charters it may as well be inferred, that the Subject is bound to make and repair the King's Parks and Houſes, and to make new Bridges, and divers other things; theſe Charters of Exemption freeing

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Obj. from
matter of Fact
and Charge.

freeing them *ab operationibus Dominiorum Regalium, Parcorum, & Pontium*, and from divers other things, which by Law the Subject is not bound unto.

My Lords, for the Presidents that may be brought for proof of the use and matter of Fact; as I do not profess to know them all, so if I did, yet time would not permit a particular Answer to each of them; I shall therefore offer these general Answers to them.

That most of them, or all of them, are for charging the Sea-Towns, and not of the In-land Counties: That besides the Five Ports, many great Sea-Towns and Havens which have Ships, have many great Priviledges, and are infranchised for that purpose, is declared in the Parliament Roll of 13 E. 3. N. 11. before cited. Those that are to find Ships, besides the many Prescriptions for Wrecks and benefit of Fishing, are discharged of Arms and Defence at Land, as appears not only by that Parliament Roll, but by the *Scotch Roll*, 10 E. 3. N. 28. *Dors.* The Town of *Shoram*, in the County of *Sussex*, time out of mind had found Ships; and therefore being by the Commissioners for the Array taxed to Arms for the Land-Service, a *Supersedeas* for that very cause awarded.

Iter Sussex 7 E. 1. Roll. 63. Dors. William de Bruise Lord of *Shoram*, upon his Claim adjudged, that all the Customs of Merchants at *Shoram* belonged to him. *Rot. Pat. 26 E. 1. M. 16.* The Town of *Tarmouth*, *pro servitio Navium impenso & impendendo*, are discharged of all Subsidies granted in Parliament, *Pro Corporibus Navium & attito, & Co'ia Tr. 3 E. 2. Ro. 30.* The Town of *Baldsey*, in the County of *Suffolk*, for the same cause discharged by Judgment of the Court.

Iter Cant. 21 E. 1. Rot. 44. Dors. Certain Land-owners within the Five Ports have *Tall' de quolibet homine applicante* upon their Lands.

Petitions 1 E. 3. Ro. 9. Office de Pa', in consideration of the Charge of providing Ships, the Town of *Southampton* petition, That their Priviledges of having Customs within the Ports be confirmed unto them. That they had these, appears *H. 13. H. 4. B. R. Ro. 39.* where they are indicted for Extortion, for taking more Custom than was due, *Rot. Par. 45 E. 3. N. 31.* The Commons pray, that the Franchises of the Sea-Towns and Havens may be allowed them as heretofore, and that by default thereof the Navy of *England* is much decayed, to the disassurance of all the Realm if need should be. That those that are not Maritime Towns, ought not to be charged, which is the very Case of the Defendant: I shall cite to your Lordships express Presidents.

Claus. 13 E. 3. M. 14. Dors. pars secunda. The Town of *Bodwine* in *Cornwal* discharged of Ships, because *dicta villa portus non est, & longe a Mare distat*, and hath not used before-time to find Shipping. And an Inquisition awarded to enquire of these Particulars, whereby it appears, that the In-land Counties had not so much as *de facto* been usually charged with Ships.

Rot. Franc. 21 E. 3. M. 17. Those Towns *quæ Naves non habent, & quæ aliis Naves habentibus contributoria non existunt*, that they should

should be discharged. It appears thereby, that there be some Towns that are Members of great Sea-Towns, and are contributory to Shipping, and other In-land Towns are not contributory, *Secunda Pars Pat. 2. R. 2. M. 42. a Chartre 51 E. 3.* whereby it is likewise recited, that the Burgeses of *Beverley* had by their Petition in Parliament complained, That that Town is *in loco arido, & a Mari*, that *ad sinistram procuracionem quorundam Machinantium ipsos indebite pręgravare ad contribuendum simul cum hominibus villa de Kingston super Hull*, to the making of a Barge, *per mandatum Regis*. Now they pray *de omnibus & singulis hujusmodi oneribus insolitis*, to be discharged by the Charter; it appears that they are discharged accordingly, and this now exemplified *2 R. 2.*

2. To those of *48 H. 3.* both for Taxes for Souldiers, and some to Shipping, I shall give a particular Answer: That it was then *Tempus Belli*, when the Courts of Justice were shut, for the Commissions went out after *April*; and in the *Red Book fol. 241. 6.* it was *Tempus Belli* from *4 Sept. 48 H. 3.* till the *16th of Sept. 49 H. 3.* and that the Courts of Justice were shut, appears in *49 H. 3. R. 4. Co'ia Scaccario non fuer' Barones residentes in Scaccario ad Pas. 48 H. 3. and Co'ia Pas. the 49 H. 3. propter turbationem nuper habitam*; there were no Sheriffs in *aliquibus Comitatus*, *48 H. 3.* and those that were, *non potuerunt sic facere quę ad Officium Vic' pertinebat.*

3. To those Commissions that went out before *29 E. 1.* I have given an answer already, That the liberties of the Subject had been adjudged against the direct words of *Magna Charta.*

To the Commissions *30 E. 1. M. 9.* In the Patent Roll *de puniendo homines* that refused, it is *quia ad rogatum Regis mittere concesserunt* so many Ships; and if a By-law were good to bind them, as is before proved, as well as their own promise: neither have I seen any legal Proceedings against any of those that refused at that time, save only against the Five Ports that are cited by their Service.

P. 33 E. 1. Ro. 38. B. R. & Ro. 82. against *Seaford*, as a Member of the Ports, and the Charge is, That *per servitium tenent' invenire unam navem.*

5. For those of *E. 3d's* time, His Reign was for the most part a time of War, and that the offensive brought a defensive upon the Kingdom is plain. *Wal. says*, That *P. 119. 10 E. 3.* the French, *Wal. P. 131.* burnt *Southampton*. *Stowe P. 234. 12 E. 3.* They assaulted *Southampton*, and burnt part of *Plimouth*. *13 E. 3.* They assaulted the Isle of *Wight*, *Rot. Parliament 13 E. 3. pars prima N. 9.* That they had done much mischief upon the Coast and conquered the Isle of *Jernesey*.

Scotch Roll. 10 E. 3. M. 5. Dorf. & M. 2. All the Ports throughout *England* shut up.

My Lords, in these years, wherein most of those Writs issued, the great danger appears, and yet that the Charge laid upon the Country was by Law and agreement.

I shall cite to your Lordships the *Scotch Roll 10 E. 3. M. 3.* The French riding at Anchor at the Isle of *Wight*, the King sent divers Privy-Councillors to *Dover*, and commanded all the Officers, Masters of Ships, Mariners, and Inhabitants, from the *Thames* to the *West* to come thither, and *adtractandum* with those Lords of the Council about the Defence

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Defence at Sea by Ships; and in the Records recited, that notwithstanding the King's former Command, *hactenus quicquid non fecer' in præmissis*, the Writs for Shipping issued before, and were not executed, and therefore now a Commission, if so it might be done with consent. 20 E. 3. Other Writs went out, *Ro. Fr. secunda pars M. 24. 20 E. 3.* writ to *Yarmouth*, *propter pericula Maris*, to stop up their Havens; and *Rot. Fr. prima pars M. 19. Dorf.* That no Fishermen go out to Sea.

Claus. 10 E. 3. M. 23. I shall endeavour a particular Answer to this: The Writ says, That *vadia pro defensione super Mare solvi non solebant temporibus Progenitor' of the King.*

To this I shall give this Answer, That these Wages were demanded before the time of their going to the Service; and the Record is, That *hujusmodi vadia* have not been paid.

2. My Lords, If this Answer be not sufficient, my second Answer is, by denying the King; for besides that of 15 *Job.* in that time of necessity the Ships were to serve *ad liberationes, & ad stipendia Regis*, and 46 *H. 3. M. 4.* both in *E. 1. E. 2.* and this King's time, before the tenth year of His Reign, Wages for Defence were frequently paid.

My Lords, Because I know not how far this will be stood upon, I shall spare the citing of any of them, and shall to this purpose cite to your Lordships only this Case: It is amongst the *Pa. Petitions*, 1 *E. 3.* and transmitted into the *Chequer*, *H. 2 E. 2. Dorf.*

The Fishermen upon the Coast of *Yarmouth*, 20 *E. 2.* were daily robbed and killed, and for Rescue of them, those of *Yarmouth* were commanded to set out some Ships to Sea, and *Adam Bridlington*, the King's Clerk, sent with 300 *l.* to set out this Fleet, which the Men of *Yarmouth* intended they should have as Wages for the Voyage; but the Clerk would not let them have above 230 *l.* and that as Money borrowed of the King; and for this they gave their Bond of re-payment hereof, 1 *E. 3.* They complained in Parliament, and pray, That they may be discharged of the 230 *l.* and that the Bond may be cancelled; which is adjudged accordingly, and transmitted into the for a Tryal, whether they had done the Service or no.

My last Answer to these Presidents is, That the Matters of Fact in these years, to the violation of the Subjects Rights, procured upon fresh Suits, not only the before-mentioned Stat. of 14 *E. 3. Cap. 1.* against any Charge to be laid upon the Subject without assent in Parliament.

But afterwards they complained in Parliament, 15 *E. 3. N. 9.* That their Goods were seized, and their Bodies taken without any Suit commenced against them, contrary to *Magna Charta*, and the Statutes and Ordinances made thereupon with so much discretion of their Ancestors.

And in particular, in the Parliament Roll of 22 *E. 3. N. 4.* for the guarding of the Seas. And in 36 *E. 3. N. 9.* and 37 *E. 3. N. 2.* as before in 15 *E. 3.*

My Lords, I am now come to the last thing, which is the Proofs in the Point, which I shall humbly offer to your Lordships. My Lords, the first Authority that I shall cite to your Lordships is, the Patent

Patent Roll 26 E. 1. M. 21. whereby I shall endeavour to prove to your Lordships these two things. 13 Caroli.

1. The confession of that King and His Council, That He was so far from having power to tax the People for the Custody of the Seas, as that he is bound to make satisfaction for any thing taken from the People for that purpose.

2. The second, That the Charges laid upon the People for the Custody of the Sea, were the principal grievances that occasioned the making of the Statutes of 25 E. 1. and *de Tallagio non concedendo*.

For the last, the King there declares, That He had a desire to redress the grievances made to the People in His Name, and instanceth what they were, *veluti de rebus captis in Ecclesiis, & omnimodis aliis rebus captis & asportatis, tam de Clericis quam de Laicis, sive pro Custodia Maris, vel alio modo quocunq;*. Whereby, my Lords, there's an acknowledgment, that it is a grievance, and to be redressed, — to lay any Tax upon the Subject for the Custody of the Sea.

Commissioners are there named throughout all *England*, to enquire of these grievances; herein they are to proceed according to certain Instructions from the King and the Council.

Which are these three.

1. Whether the things were taken without Warrant; and if so, then the Party that took the Goods is to make satisfaction, and further, to be punished for the Trespas.

2. If there were a Warrant, whether the Sheriff, or other Minister, took more than the Warrant allowed; if so, then the Officer was to make satisfaction.

3. If all were done according to, and in pursuance of the Warrant, and no more than upon certificate thereof unto the King, as the words are, it *en ferra tant que il se fiendra appayes prou reason*.

The King hereby promiseth, That whatsoever things were taken from the People, by any command of His, for the Custody of the Sea, that he will make reasonable satisfaction to the Party for such things.

My Lords, for the second thing, that is, That these grievances occasioned the making of these Statutes, is clear from the words of the Patent; for they were made, *Post guerram inter Regem, & Regem Franciæ*; which, as appears by the Case of the Abbot of *Robertsbridge*, was from 22 E. 1. until 25 E. 1. and by all our Historians, and many Records.

It appears likewise by those other words, that the King, before His going into *Flanders*, intended to have remedied those grievances; He went over in *September* 25 E. 1. and the Statute 25 E. 1. was made the 10th of *October* after.

Hence likewise it follows, that the exception of the King's ancient Aids and Prizes, mentioned in the Statute of 25 E. 1. extends not to this of charging of the People to the Custody of the Sea; that being one of the principal grievances that occasioned the making of it. That the same grievances caused the making of the Statute *de Tallagio*, I have before offered the proof to your Lordships.

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2. My Lords, The next Authority which I shall present is the *Co'ia H. 23 E. 1. Ro. 77.* there the King commanded 30 Gallies to be made by several great Towns, every Gally was to have sixscore Oars a-piece. These were *pro defensione Regni & securitate Maris.* My Lords, the Cases are many in the *Chequer*, where the Mony for the making of these Gallies was recovered against the King.

I confefs, my Lords, that the King had promised payment to those that made them, which I shall thus submit to your Lordships: That in Case the King might have commanded the making of them at the Charge of the Towns, that then the King's Promise was but *Nudum pactum*, in promising payment for that which by Law they might have been forced to do; And so the payment rested only in the King's Grace and Pleasure. But, my Lords, upon Suits in his own time of *E. 2.* and *E. 3d's* time, the Money for making these Gallies was recovered by several Towns. *M. 29 E. 1. Ro. 29. Dorset. for York. M. 31 E. 1. Ro. 77. Ipswich and Donwich, P. 5 E. 2. Rot. 21.* for him, *prout justum fuerit*, nothing having been paid before.

Bra. M. 6 E. 2. Rot. 14. Both for the Gally made at *Southampton*, and bringing her to *Winchelsey* at their own Charge.

Præcepta P. 1 E. 3. All the Money from *Southampton* not being paid, now ordered that it should be paid.

3. My Lords, The next Authority which I shall present to your Lordships, is the Parliament Roll of *13 E. 3. Pars prima N. 9.* and *11.* The Causes of calling the Parliament are declared to be Three.

1. First the keeping of the Peace.
2. The defence of the Marches.
3. The third, the safe-guard of the Sea, that the Enemies might not enter the Realm to destroy it.

These three Points for the Commons to advise upon, are put into writing, and entered in the Roll.

My Lords, by the Articles themselves propounded on the King's part, it appears that the Commons are not chargeable to the guarding of the Sea; for it is propounded unto them with caution, That not being bound to the guarding of the Sea, that this advice of theirs should not be prejudicial to them, to bind them thereunto, and that there are Ships enow in *England* to do it, if the People were willing, *N. 11.* The Commons afterwards, in debating these Articles, when they came to this of the Sea, notwithstanding the caution before, they are afraid, that if they should debate it, that it might imply that they are chargeable to do it; and therefore they protest against giving any advice therein, as a thing whereof they have no cognizance; and do further declare, That the five Ports, and divers other great Towns that have Franchises, and are bound thereunto, that they should do it.

And therefore the Merchants, Masters of Ships, and Mariners through *England*, are summoned to be at the next Parliament for advice about Shipping,

4. My Lords, The next Authority, is the Parliament Roll *20 E. 3. N. 21.* The Commons petition in these words, *que la gard de la mere se face descries Res soit le gard fit man ad refait amant vis se-*
nois

nois ut semble que Melliur gard ne poit estre fait que le Roy ne fait
no' post il de marrit issint per de la sur Ca' guer' & pr' de faire de
cest terr'. 13 Caroli.

My Lords, The Commons having formerly granted the King
divers Aids and Subsidies upon Wools, Wool-fells, and Leather,
and otherwise, for the guarding of the Sea, they now grew weary
of it and desire that the King himself from thenceforth should
bear the whole burthen thereof, and charge him with his promise
to that purpose.

My Lords, This Petition, although in the Name of the Com-
mons, yet the Lords joyned in it; for otherwise all our Acts of
Parliaments of those times being made upon Petition and Answer,
should be without the Lords assent. Hence it appeared, that the
whole Kingdom at this time was so far from thinking that the
King could charge them without their consents, to the guarding
of the Sea, as that they alleadge that the King himself ought to
bear the whole Charge; neither doth the King deny His promise,
nor wholly deny the thing; for though he says, that it should be
done as hath been done before, yet it is with a qualification, be-
cause the Sea cannot be better kept than he hath kept it, by reason
of his so often being at Sea in Person, in going and returning from
France, and diverting the Enemy by his Wars in *France*; if the
King had given His absolute denial, yet here's the Judgment that
both the Houses of Parliament express in Point.

Rot. Franc' 21 E. 3. Secunda pars N. 11. and 9. The Merchants
had granted 2 s. 8 d. upon their Goods till *Michaelmas*, for provi-
ding 120 great Ships *pro secura conductione Navium & Merchandi-*
zarum, & pro defensione cæterarum maritimarum Regni, & aliis peri-
culis his guerrinis temporibus regno venientibus. This Grant being
made by Merchants, the King alleadgeth this was not sufficient for
the Service, and the causes of the stoppage of Trade by reason of
the Wars: the King now lengthens out the time from *Mich.* till
Easter following; and to satisfie the People the King by His Pro-
clamation declares, That the 2 s. 8 d. shall cease at *Easter* according
to the Grant; which, as it should seem, not satisfying the People,
or the King still continuing the taking thereof, the Commons in
Parliament, 22 E. 3. N. 16. pray, that it may cease, and that by
procurement of no Merchant, *Pluis l'argent soit continue.*

An Impositi-
on but for half
a year, and
that upon
Merchandise,
and by con-
sent of the
Merchants, for
the Defence,
yet taken off
upon com-
plaint.

The Answer is, that it should cease.

My next Authority is the Parliament Roll 2 R. 2. *Pars secunda*
N. 5. before cited, where the great Council and Sages of the
Kingdom resolve, That the Commons are not chargeable to the
Defence of the Realm without Parliament, extends to this Parti-
cular of the Sea, for the present preparation whereto the Com-
mons are not chargeable for defence at Sea; and therefore the Mo-
ney lent was to provide an Army for the Sea *en defence & salvation*
del' dit Realme, & de la navie, & des costiers del' mere.

My Lords, The next Authority is the Parliament Roll of 2 H. 4.
N. 22. Commissions to charge the People to make Ships for the
defence of the Realm without consent in Parliament, repealed
by the King, and the whole Parliament, for that very cause.

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Perfect this
per le Record.

Item pur ceo quere tarde divers Commissions fuerunt fait au divers Civies, Burrowis & Villis du Roylme pur faire certain barges & ballingers ss' assent du Parliament, & outment que estre fait devant ces heures n' les Commons prove a nostre sur le voy que les dits Commissions soyent repeales, & qu'ils ne soyent de nul force ne fait a que fuit respondus que le Roy voet que m' les Commissions soyent repeales in tous points mes pur le grand necessitie que ad des tiels neifes pur defence du Roylme en Case que les queus se priment le Roy voet Communer de rest matter ovesq; les seigniore, & puis apres le monstre ove dits Commons pur eut aver leur Counsel advise in tiel part. The first Commissions repealed, because the Commons were not chargeable without consent in Parliament; and now the King will put it into the Parliamentary way by doing with assent of the Lords and Commons.

8. My Lords, my next Authority is the Par. Roll. 9 H. 4. The cause of the calling of the Parliament is for the safe-guard of the Sea, and of the North Marches; and N. 17. great mischief shewn for default of the safe keeping of the Sea; and N. 21. It's there in-rolled by the King's Commandment, that there was Communication had between the King and the Lords of the Defence of the Realm, and for resisting the Enemies, who made preparation on all sides, whereunto sufficient resistance cannot be provided, without that the King have in His Parliament some notable Aid granted unto him.

My Lords, The King hereby acknowledgeth, that he cannot without the Parliament charge the People for the safe-keeping of the Sea, that being the principal part for the defence there intended. The same with the Summons, that without the consent of the Commons, *negotia prædicta infra remanerent*; and with the Summons in the close Roll, 23 E. 1. before-mentioned, *quod omnes tangit per omnes debet approbari*.

My Lords, the next Authority in the Parliament Roll, 4 H. 4. N. 28. The Lords Spiritual and Temporal, and the Commons grant to the King a Subsidy upon the staple Commodities, and Tunnage and Poundage, and likewise a 10th and 15th with this protestation.

Protestant que cest grant en temps avener ne soit passe in example de charger les dits seniors ne les Commons du Realme de nul manner Subsidie ne 10th ne 15th a les guerris descore, gates ou safe-guard de mere s'il ne soit Ples volunts des Seigniors & Commons de vestre Realm, & ceo a novel grant faire in plein Parliament.

Rot. Parliament. 6 H. 4. N. 12. and

Rot. Parliament. 1 H. 5. N. 17. the same Protestation as before.

My Lords, That the Charge of the Defence at Sea, and that in a large proportion, by reason of the before-mentioned Duties, is to be born by His Majesty, I conceive that it will not be denied, that in *Subsedium*, and Aid of His Majesty, therein the Commons are not chargeable without their consent in full Parliament: in these three Records there is not only these Protestations of the whole Realm, being made by the Lords and Commons, but likewise these Kings consents, by accepting the things granted, and that without any qualification of the Protestations. These Prote-

stations,

stations, that they are not chargeable to the guarding of the Sea in a certain way, as are 10^{ths} and 15^{ths}, do much more fail in a way uncertain, as here.

13 Caroli.

My Lords, my next proof is from the practise of former Kings in their frequent demands of Aids in Parliament, for the defence of the Sea, as well before the Statute of Tunnage and Poundage, as then; and sithence Monies borrowed by the former Kings for Ships and defence at Sea, and Indentures of Reteyster for that purpose at the King's Charge.

And not only so, but upon Suit, allowances in the *Chequer* for Victuals, Mariners Wages, Archers, Prisoners taken in Sea-Fights, *pro defensione*, and all other things necessary for Shipping, when for the Defence of the Realm. Whereupon the same Argument may be made in this particular for the Sea, as was before for the Defence in general.

The last thing which I shall press, is that of the five Ports. Their Service is certain in respect of the time, but 15 days in a year, in respect of the Charge, but 20 Men and a Master, the number of Ships certain.

Besides, that they are discharged of Arms for the Land-Service, they have divers other Priviledges for the doing hereof; they were free from all Aids and Subsidies granted in Parliament, and are by Privy-Seal discharged thereof, *H. 2. E. 3. Co'ia*, about the end of the Roll.

They are freed from all Tolls, Murage and Pontage throughout the Realm, which bringeth a greater Charge upon the rest of the Subjects.

My Lords, I shall thus offer it to your Lordships, if they that have these Priviledges shall serve but 15 days in a year, how the others that have no Priviledges at all shall do it for 26 weeks, as in the Writ.

Secondly, their Charge is certain in the number of Men and Ships, how the rest of the Commons, that are so far from having any Priviledges or recompence for it, as that they do contribute to this Charge of the five Ports, shall, as by the way in the Writ, be altogether uncertain in the matter of Charge, both in the number of Men, and of Ships, and of every other thing.

My Lords, I shall press this farther, thus, when the Ports exceed their Charge in the number of Men or Ships, allowance by the King is to be made unto them.

This, as it appears by the Quier of *Dover*, and the Patent Roll of 7 *H. 7.* before cited, that after the 15 days they were to be at the King's Charge. So in the Patent Roll, 19 *H. 3. 14.* because they found 40 Men in the Ship, the King promiseth payment for all over and above the number of 21. *Bra. Tr. 33 E. 1. R. 22.* allowance to Service in *Scotland*. The *Scots*, as appears by *Wal. P. 53.* and other-where, having about that time burnt divers *English* Towns and Ships, and a School-house with 200 Scholars in it.

Visus Com. P. 33 E. 1. R. 70. Pro ingenio Ro. Scotland
P. 34 E. 1. Ro. 37. Co'ia la Composition.

My

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My Lords, if the Ports, who are bound to the Defence at Sea, when they have performed their Service, be not compellable to any farther Charge; I shall humbly offer it to your Lordships, whether those that be not bound at all, are from the same reason chargeable at all.

My Lords, I have now done, and shall not further press upon the patience of your Lordships.

I know that *nullum Tempus occurrit Regi*: The disuse thereof I shall press it no otherwise than as it is an Interpretation of the Statute made against all Aids and Tallages in general, and of the complaints in Parliament of 5 N. 9. 36 N. 9. and 37 E. 3. That those Statutes had not been duly kept: And further, as it is an Interpretation likewise of the before-mentioned Declarations, Petitions, and Protestations against this in particular, and as it is an execution of them, and putting them in practice.

Praxis Sanctorum, as the Divines say, *est interpretis præceptorum*.

The Claims which anciently the Subject hath made upon the Crown, that none of the great Officers of the Kingdom could be chosen but in Parliament, nor that the King had power to sell any of the ancient Crown-Lands; the disuse it shews, that those Claims of theirs were not legal.

Bra. in his fourth Book, fol. 209. says, That *longa Patientia trahitur ad consensum*; the Non-Claims therefore of so many of the later Kings and Queens, I shall present unto your Lordships, as so many *le Voat's* and Declarations of their several consents; That without Assent in Parliament they could not have laid the like Sess upon any of their Subjects, as is now laid upon my Clyent.

The End of Mr. St. John's Argument.

Sir John Bankes Knight, the King's Attorney-General, his first days Argument in the Case of Ship-Money in the Exchequer-Chamber, December 16. 1637.

May it please your Lordships,

There was a *Scire Fac'* brought against Mr. Hampden, and divers others, to shew cause why those Sums of Money Sessed upon them by the Sheriff of Buckingham should not be paid and answered. It beareth *Teste 22 Maii 13 Car.* and a *Sci' Fac'* Returned: Mr. Hampden demandeth Oyer of the original Writ 4 Aug. and of the *Certiorari*, *Mittimus*, and several Returns. The Writ of 4 Augusti went out to provide a Ship of 450 Tun, with Victuals, Men, Munition, &c. The Writ giveth power to the Sheriff to make an Assessment upon the County, and giveth Power of Distress and Imprisonment *contra rebelles* in case of Non-payment. He demandeth Oyer of the *Certiorari*, which consisteth of two parts, the one to certifie the Sums assessed, the other to certifie the Names of the defaulters. And the Names of those that made default were Returned, and Mr. Hampden amongst others. He demandeth

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mandeth Oyer of the *Mittimus*, which doth recite the tenure of the first Writ. 13 *Caroli.*

Upon Oyer of all these, both of the Writ 4 *Augusti*, of the *Certiorari*, *Mittimus*, and *Sci' Fac'*, and their several Returns, Mr. *Hampden* hath demurred in Law.

The Case that ariseth upon this Record is thus: The King is Lord of the Sea. That's part of the Record. The Sea is infested by *Pirates* and *Turks*, who commit depredations, and take Goods and Merchandizes, both of the King's Subjects, and others that traffick there, and carry them away into Captivity. There is preparation of Shipping, eminent danger; for so the Writ reciteth: A danger, that the King's Dominion at Sea should be lost, or at least diminished. There was a farther danger, that *Salus Regni periclitabatur*: Whether in this Case the King, *pro defensione Regni, tuitione Maris*, &c. may command His Subjects, *per totam Angliam*, by Writ under the Great Seal to provide Ships at their own Costs and Charges. And this when the King in His own Judgment conceiveth such a danger as doth necessarily require this Aid. That, under favour, is the Question upon this Record.

There is in this Record, whereof your Lordships are Judges, four Writs. (1) 4 *Augusti* 11 *Car.* which goeth out of the *Chancery* for the setting forth of this Ship of 450 Tunn. (2) That 9 *Martii* 12 *Car.* and that's the *Certiorari*. (3) 5 *Maii* 13 *Car.* which is the *Mittimus*. (4) 22 *Maii* 13 *Car.* which is the *Sci' Fac'*. The second and the fourth Writ, which is the *Certiorari* and the *Sci' Fac'*, they are Returnable. The first Writ and the third Writ, which is the Writ 4 *Augusti*, and the *Mittimus*, they have no Return; but they give command, and require execution should be done, *prout de jure*, &c. *secundum consuetudinem Angliæ*.

The first Writ, which is the ground of this Business, standeth upon two Parts, *viz.* A Preamble, and the Body of the Writ: The Preamble, that containeth, first, a Direction; secondly, the Motive and Causes of the issuing of the Writ. The Body containeth six; The direction that is unto the Sheriff of the County of *Bucks*, *Necnon* unto the Bailiffs and Burgeses of *Buckingham*, and *probis hominibus* of all the County. The Motives and the Reasons inducing this Writ, are nine in number. (1.) *Quia Priati*, &c. That these commit spoils and depredations by Sea, and take the Goods of the King's Subjects. (2.) Because they carry the King's Subjects into miserable Captivity. (3.) Because of the preparation of Shipping, that is made *undiq;* to infest the Coasts. (4.) *Quia periculum*, &c. (5.) *Quia pro defensione Regni, tuitione Maris*, &c. (6.) *Quia pro repulsione*, &c. (7.) *Quia Progenitores nostri Reges Angl' Dominium Maris temporibus*, &c. (8.) *Quia onus defensionis*, &c. (9.) The most prevalent, *Quia hoc per Legem & consuetudinem Angl'*, &c. The Body of the Writ containeth several Mandates to the Sheriff, and Head Officers, *quod fide & ligeantia*, &c. *sicut nos & honorem diligitis*. The Mandates are six. (1.) To provide a Ship of 450 Tunns, well-armed, and furnished with Provisions, and that was to be in a readiness by the first of *March*, to continue for the space of 26 Weeks, *ad proficiscend' cum Navibus nostris pro tuitione Maris*, &c. (2.) Mandate was a command unto the Sheriff, and the Head-Officers, that they shall meet within 30 days,

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days, and set down what shall be taxed upon the incorporate Towns. (3.) A *Command* unto the Head-Officers of those incorporate Towns, that within their Bayliwicks they make an Assessment upon particular Persons, and compel them to pay the same. (4.) A *Power* unto the Sheriff to Assess all within the residue of the County, *juxta statum & facultatem*. (5.) A *Command* for the levying of those Sums by distress, *ut contra rebelles*, to imprison their Persons. (6.) That no part of this Sum collected shall be converted unto any private use; but if any Money be remaining, it shall be paid *inter solvenda*.

My Lords, the *Reasons* expressed in the Writ might justly satisfy any Man's Judgment without further Argument; but I shall clearly manifest, there is no Clause or Particle in this Writ, but is verified by many Records, and is *secundum Legem & consuetudinem Angliæ*. The Question that is made is of a high and transcendent nature: It concerneth the King in those Cases, where He in His Royal Judgment shall conceive a *necessity* for the Defence of the Realm, to command Shipping in this kind; whether by His Royal Power He can do it, or must require the Aid *per Commune Concilium in Parliament*. And I conceive His Majesty may do it, not only by His Kingly Prerogative, but *Jure Majestatis*. This Power is not only *inter Prerogativa Regis*, sed *inter Jura Summæ Majestatis*. I find by many Records, that these Writs have issued out in all succession in the times of the *Saxon* before the Conquest. But I never find that this Power was ever Judicially questioned in any Court at *Westminster*. I find question made touching Assessments, whether they have been equal; touching the levying, whether within the Warrant of the Officers; touching the discharging of some by reason of a Grant of exemption: but to question the main Power, whether the King by His Royal Power might command this for the defence of Himself and the Kingdom, was never disputed. But His Gracious Majesty, who hath declared Himself, that He will rule His People according to His Laws; for the satisfaction of the People, and to clear His Justice and Judgment, doth suffer these Writs to go forth, to which some have demurred, and to be questioned in this Legal way to be determined by your Lordships, to which I hope you will give a clear end.

My *Position* shall be this, That the King, as He is King of England, *pro defensione Regni, tuitione Maris, &c.* When His Majesty in His Royal Judgment conceiveth it time of danger, as doth necessarily require the Aid commanded in this Writ, that He may command and compel His Subjects, per totam Angliam, to set forth Ships with Men and Munition, and double equipage; and this may be done as well by the King's Writ under the Great Seal, as consent in Parliament. For the proof of this *Position*, I shall reduce what I have to say to these Heads. 1. That this Power it is *inter Jura Summæ Majestatis innate in the Person of an absolute King*, and in the Persons of the Kings of England; so inherent in the King, that it is not any ways derived from the People, but reserved unto the King, when Positive Laws first began; and that in this Case the King is the *Sole Judge* of the danger, and how this danger is to be prevented and avoided; This is my first Ground. The second is this, That this Regal Power it is not confined to the publick advice, that the King must be in

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Cathedra sitting in Parliament. But that it hath been always done, either *per ipsum Regem, aut per Concilium, aut per Dominos suos, aut per Regem*, when he shall please to call a Consultation of Merchants and Portsmen experienced in the Service. 13 Caroli.

My Lords, upon this Head I shall prove unto your Lordships, that this Power is so inherent in the King, that during the time of Parliament, and in those years when Parliaments were sitting, that these Writs issued out by a Regal Power, without any Power of Aid in Parliament; and that Advice was not thought necessary in former times. In the third place I shall shew your Lordships out of the very Title which the Common Law of *England* giveth to the King, that this Power is implied out of his *Sovereign Title* given unto him by the Common Laws of *England*. In the fourth Place I shall insist upon Presidents, and herein I shall desire you to take notice, that these Writs have not issued out at the first upon any sudden advice, but that there was a great search made first by my Predecessor Mr. *Noy*, a Man of great Learning and profound Judgment; other Searches made by the Kings Counsel, and some others; and a great number of Records were considered of, and maturely, before these Writs issued; so nothing was done upon the sudden. And we that are of the Kings Counsel did think it fit, that most of these Records should be cited in the first Argument by Mr. *Solicitor*, to the end that the Counsel at the Bar might give an Answer in their Reply. Many other Records have been added by Mr. *Solicitor*, and many more I shall cite which have not been remembered.

My Lords, in the vouching of these Records I shall observe eight things. First, That the Records we insist upon, they are not grounded upon any private Custom, upon any Charter, upon any Covenants, but upon *the Law of the Land*. And there is not in any of these Records any recital, that these Writs went out upon any of these Grounds. 2. That in all Ages before the Conquest, and in the time of *William* the first, that these Writs have issued, *per ipsum Regem, per Regem & Concilium*, and did not issue by any Advice in *Parliament*. 3. That these Writs were sent out, not in Case of *Hannibal ad portas*, or an Enemy discovered, or sudden Invasion, but in Case of *rumors of dangers*, and in that a danger might happen; so not in approach of an Enemy, but in Case of preparation to be provided against an Enemy. 4. That the King did command Shipping to be set forth, and in those years wherein there were Parliaments, and sitting Parliaments, and by his Regal Power, without advice in Parliament. 5. That great Subsidies and Aids have been given unto the King in Parliament, *pro defensione Regni*, in the same years that Writs went forth for the Defence of the Kingdom. 6. That those Aids have not only been required from the Maritime Parts, the Ports, nor from the Maritime Counties, but from the In-land Counties, as this Case is *Buckinghamshire*, and *per totam Angliam*. 7. That many times when these Writs issued, there hath been no such Causes declared, as hath been in this Writ. I shall observe, that in many of these Writs no cause at all was set forth in them, but only that they should repair to the place of Rendezvous, and there receive further direction. 8. I shall verifie every Clause of this Writ by many Presidents. A *Mandamus*,

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damus, and not a *Mandamus Rogantes* Shipping at the charge of the County and assessment by Sheriffs as Commissioners, and a penalty greater, not only Distress and Imprisonment, but *extent* of Lands, seizing of Goods till the King were paid. These are the things I shall observe out of the Presidents when I come unto them.

My Lords, In the fifth place, when I have laid these foundations, I shall then dispel those mists that have been raised, remove those Forces that have been mustered, and answer the Objection of those Gentlemen that will not be defended by the King's Writ under the Great Seal. And in this give a particular answer to the Acts of Parliament that they have cited, to the Records that they have insisted upon, to the Reasons and Authorities. And I shall answer their exceptions that have been taken unto the several Writs, Records, and Proceedings thereupon. In the sixth place I shall collect some conclusions and reasons out of the Premises, and cite unto your Lordships some Judicial Records, that may satisfy your Lordships in point of Judgment. These are my Materials, I shall proceed unto the Building.

My Lords, *My first ground was, that this power was innate in the person of an absolute King, and in the person of the King of England.* All Magistracy is of nature, and Obedience and Subjection is of nature; and before any positive Laws were written, or any municipal Law, people were governed by the Law of Nature, and Practice did rule according to natural equity: this appears in the Reports of Sir *Edward Cook*, written by him when he was Chief-Justice, 7 Report fol. 13. I will not take occasion to discourse, either of the Law of Nature, which doth teach us to love our Country, and to defend it, and to expose the Hand to danger rather than the Head should suffer: nor of the Law of God, which commandeth obedience and subjection unto the Ordinances of Superiors: nor of the Law of Nations, which doth agree, that there must be protection from the King, and obedience from the People; and without defence there can be no protection, and without aid of the People there can be no defence: nor of the Imperial Law, which saith, that in cases *pro utilitate* the King may *statuere* alone.

My Lords, I will upon this Subject confine my self to the Law of the Land, and insist upon such Records, and such Presidents, and such Reasons, and such Authorities as I find both by Record of former times and by our Books. 1. In the original government of this Nation I do not find the contrary, that there was a great number of Petty Regiments. And when *Julius Caesar* did invade this Realm, he writeth that there were four Kings in *Kent*, and other places; and *Strabo*, lib. 4. saith the like.

So those times will not be material. During the domination of the *Romans* from *Julius Caesar*, which continued 500 years, the *Romans* had their Prefects here in *England*; no man will doubt but they might command what they pleased: that in their times there were special Officers called *Comites*, and Officers appointed by Sea, and others by Land. Those that succeeded the *Romans* were the *Saxons*, and in their times both by antient Grant, and by Edicts of the Princes of those times, that this Naval Power was commanded

manded by them for defence of the Realm. First to begin with King *Inas*, Anno Dom. 725. King of the *West Saxons*. This King in that year made a grant to the Abbot of *Glassenbury*, *Quod, &c. sint quieti ex omnibus Regis exactionibus & operibus*, except *expedite Arcium, Pontium, &c. constructionem sicut in antiquo, &c.* Which shews that these expeditions were accustomed to be done. *Wuldredus*, King of *Kent*, he in the year 742 granted to his Churches, *quod sint liberi ab omnibus secularibus servitiis*, except *expedit. pontis, &c.* so in that grant these expeditions were excepted.

Ethelbaldus, King of the *Mercians*, Anno 749. granted *Monasterio de, &c.* except *ut supra*: So that as in this time the services were common, and were done *a dicto Regis*, that the Churches should be free from all services but these three of expedition, of building Castles, Bridges and Forts, *A quibus nulli unquam laxari possunt.*

Egbert, Anno 840. commanded a great Navy to be provided, and that was for the defence of the Realm and safeguard of Ships.

Ethelwald that was King of the *West Saxons*, Anno 854. granted to the Church that it should be free from all Services temporal, except *Regalibus Tributis*. In the time of King *Alfred*, who was the first Monarch and King of all *England*, there was one who was a Privy Councillor in his time, and writ his Life and the Story of his Time, and he in his ninth page saith, *quod Rex Alfredus jussit Gall. longas Naves, &c.* and agreeing with the History of *Wigorensis* 316. *Huntington* 351. wherein your Lordships may see by the Records, that it was done *ex precepto Regis per totum Regnum.*

This King made a Law (which is not remembered by *Lambert* in his *Saxon Laws*) to this substance; that no man upon Summons by the Horn or word of Mouth should sit still in matter of Theft, Bloodshed or going to War, whatsoever his expedition should require: and there he doth mention it to be upon pain of forfeiture of Life and Death. King *Edgar* who stiled himself *Anglie Basilius*, he in the year 959 provided a mighty Navy of 3600 Ships, as saith *Wigornensis* and *Math. of Westminster*; and he gave a Command that every year at *Easter* a Navy of 3 or 4000 Ships be set out and divided into three parts, *East, West* and *North*. The Ships in those times were not so great as now they be. The same *Edgar* in the year 973 granted unto the Abby of *Thorney* all manner of Immunities, and that it should be free, except those three defences of building of Bridges, Castles and Forts. And the same King, in his Charter to the Church at *Worster* granteth unto them to be free *ab omnibus exactionibus*, except *constructionem Pontium, Arcium, &c.* My Lords, by all these several grants, and what hath been done by those Kings it doth appear, that these three fundamental services were reserved unto the Crown, saving some two or three Abbys which had some particular exemption. In the year 1008, which was remembered by Mr. Solicitor, there was then a great Navy prepared by King *Ethelred*. The words are thus, *Rex Ethelredus per totam Angliam ex 310. Hidis Navem unam, &c. preparare fecerit*, That was for every 310 Hides of Land to build one Ship, and every eight Hides to find a Man and a Corslet, and to meet at *Sandwich* for defence against the *Danes*.

This

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Sir H. Spelman.

This appeareth, *Huntington* 360. *Matth. of Westminster* 387. *Hoven-den* 426. *Malmsbury* 100. In this Record these things are observable. 1. *Rex parare facit & Rex jussit*, then *per totam Angliam*, all *England* was to be charged. By the *Glossary* of that Learned and *Judicious Antiquary*, it appears that *virgata terra continet 24 Acres*; upon casting up of this it doth appear, that there be in *England* 363600 Hides, every 310 Hides being to set forth one Ship, the whole number amounteth to divers thousands, and every 8 Hides to set forth a Souldier 45450 men; but it is not the number but the matter that is done by the King's Command *per totam Angliam*.

In the thirteenth year of King *Ethelred* he made an Edict, which Mr. Attorney caused to be read in Court, saying he had it out of an old Book at Cambridge, *quod instaurant tiel number de naves per singulos Annos, &c.* I read it to this purpose, to shew that in the 30th year of his Reign there was a Naval expedition always to be ready at *Easter*, and sheweth the penalty of such as did depart without license.

King *Canutus*, *Lambert*, fol. 117, 118. *ex sapientium Concilio, &c.* ordained a Command among his temporal Laws, *Cap. 10. quod praesidii fiant, &c.* Command Shipping to be provided, and fol. 118. a penalty upon those that did refuse to pay 120s. which was a great sum in those days. That which I do observe out of these two, were these; 1. That they were made by the King by the advice of his Lords; that there was to be yearly preparation for shipping. Those that departed out of the service, were to incur the forfeiture of all their Estates. *If these Edicts were Acts of Parliament, they stand unrepealed, and if no Acts, then they stand by Command from the King's power.*

My Lords, I have shewed unto your Lordships the practice as it was before the time of *William* the first. He did not abrogate the former Laws, but was sworn to observe them. Nay, it was said, he did confirm *Antiquas Leges & Consuetudines Angliae*; So as then, if these were the Laws, and the ancient Kings of *England* had before his time, he did ratifie and confirm it, but not diminish it. This Power of commanding of Shipping, for the defence of the Realm, it is a principal part of the Royal Power. This Kingdom, it is a Monarchy consists of Head and Members, the King is the Head of this Politick Body, it consists of Clergy and Laity. It is furnished with intire Power and Jurisdiction, not only to minister Justice in causes Ecclesiastical and Temporal unto His People, but likewise for defence both of the one and the other. This Power I find to be mentioned in the Register of original Writs before the Conquest; 127. b. it reciteth, that *Nos inconsideratione ad providendum salvationem Regni nostri &c.* It appears by *Stamford* in his *Prerogative*, *Cap. 1.* That as the King is the most excellent and worthiest part or member of the Common-wealth, so is He also the Preserver, Nourisher and Defender of His People. I find it in *Fortescue*, which they have cited, that a Common-wealth without this Head were but a Trunk. I find it in *Fitz. Nat. Bre. fol. 73, or 173*, that the King of Right ought to defend the Realm, as well against the Enemies at Sea, as against other Enemies, that it be not surrounded, nor wasted. How is this defence against the Sea and Enemies? is the

the King bound to defend the Realm by Sea-walls at his own Charges? No, the Power of the defence is a Superintendent Power in His Majesty to authorize Sheriffs and Commissioners to see it done, but by His Power, yet at the charge of the People, *Register* 227. b. It appeareth there where the King commandeth His People by His Writ, one directed to the Sheriff, the other to Commissioners, and in both Willeth and Commandeth *quod distringat A. B. & alios*, to distrain the Lands of all those that may receive damage to repair to the Sea-banks, as well as the Terrtenant. This Writ was before any Statute, for the Register was before the Conquest; and the first Statute that concerneth Sewers was made 6 H. 6. so it is by the power the King had at Common-Law, and not upon any Statute; and this was to the Sheriff as well as to Commissioners: and that it was done at the charge of the Countrey, and not at the King's charge, *Pat. 23 E. 1. m. 4. dorf.* agreeth with the Register. The King doth there recite *quod ratione dignitatis Regis, &c. & per juramentum sumus astricti ad providendum salvationem Regni*, and there he giveth power to Commissioners to distrain the People to make defence against the Sea at their own charges, *Pat. 2. E. 3. 2. m. 5. dorf.* in the Case of *Wiseman*, 2 *Rep. fol. 15.* The King *ex officio* is to govern his Subjects in peace and tranquillity, 7. *Rep. fol. 9.* protection of the King is generally over all the Kingdom. There is reason why it should be thus, for the King of *England* he hath an entire Empire, he is an absolute Monarch; nothing can be given unto any absolute Prince, but is inherent in his Person, as may appear both by Books, Records and Acts of Parliament, *Brac. lib. 2. fol. 55. b. Sciendum, &c. Dominus Rex super omnes, qui ad Coronam pertinent.* This appeareth likewise in the Statute 24 H. 8. there it is declared, that this Realm of *England* is one Empire, and hath been so accepted in the world, *Stat. 25 H. 8. c. 21. 1 El. c. 1. 1 Jac. c. 1.* the Crown of *England* is affirmed to be an Imperial Crown, and Acts of Parliament prove the highest nature, 16 R. 2. c. 5. that the King holdeth his Empire immediately of the God of Heaven, and at His Coronation the Crown is elevated as a signification thereof: this is likewise acknowledged in the *Irish-Reports, fol. 60. Rex Angl. est absolutus.* *Fortescue* saith the King of *England*, as well as any other King or Emperor, hath all his liberties within His Kingdom *in Imperio suo.* The Law of *England* maketh the King of *England* not as His Subjects, nor a natural Body, but a politick Body, freeth him from all imperfection or infirmity; he is immortal, he never dieth, the King ever liveth, 1 *Com. 177. 11 Rep. 7. 21 E. 4.* and other Records.

My Lords, As he is an absolute Monarch, so all these *inter jura summa Majestatis* are given unto His Person by the Common-Law. 1. He hath Supreme Dominion both by Sea and Land: this is proved by *Mirror*, the greatest part whereof was written before the Conquest, some things added to it by *H. Horn* in the Reign of E. 4. he concludeth all Lands, and all Jurisdiction, and all Dominion is derived from the Crown, that whatsoever was not granted from the Crown remaineth in the Person of the King. This *supremum dominium* is so inherent in the King's Person, that if the King grant away His Lands *absque aliquo reddendo*, yet the tenure must still remain to the King.

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8 H. 7. 12. 30 H. 8. 45 Dyer. This Dominion is not only upon the Land, but it is upon the Sea. And so the King He hath not only a Dominion by Sea, but He is *Dominus Mar' Angl'*, &c. He is both an owner of the Sea, and Soil under the Sea. And so it was lately resolved by my Lord Chief-Baron, and the rest of the Barons of the *Exchequer*, in the Case of *Sutton Marsh*, That the Soil of the Land, as the Sea floweth and re-floweth, is the King's, and the King is seized thereof *Jure Coronæ*, *Mirror* 8. only the Dominion of the Sea, but the very Soil thereof belongeth unto the King.

Next place, he saith, besides his *Supremum Dominium*, a *Sovereign Jurisdiction*, and that extends both by Sea and Land: 1. For creation of all His Majesties great Officers and Judges, creation of the Admiralty time out of mind. 20 H. 7. fo. 8. 12 H. 7. 17. Power to make Justices could not be granted; and all these Powers resumed in the Statute, as inherent in the Crown, &c. Surely this Jurisdiction by Sea did not begin in the time of R. 1. when those Laws were renewed by him at his return from the Holy-Land. But there were Admirals in *England*, and the Admiral-Law by Sea long before 27 E. 1. A famous Record in the *Tower*, that the Commissioners for the Emperors of *Spain* and *France* did appear before the King's Commissioners, and did acknowledge, the Sovereignty of the King of *England* upon the Sea did belong unto him time out of mind. And for further proof of this, it appeareth likewise in that Learned Book of Mr. *Selden's* (*Mare Clausum*.)

My Lords, The next inherent Power of the Crown is 1. Pardons, 2. Restitutions, and 3dly, Pardoning of Condemned Persons, which none can do but the King himself, 1 H. 4. fol. 5. 20 H. 7. 8. The 4th is *Jus nummi percutiendi*, a setting of a Royal Stamp upon his Coin, and the debasing of it, 21 E. 3. 6. That the King only can put a Value upon it, 5 Rep. 114. That the King by his absolute Prerogative may make any Forreign Coin lawful Money of *England*, by his Proclamation, *Daves Rep.* fo. 20.

Next is, *Jus Sum' Majestatis*, that of concluding War and Peace, which is absolutely inherent in the King's Person, which he may do without calling of his great Council, 19 E. 4. 6. That all the Subjects of *England* without the King, 7 Rep. 25. cannot make War *Bellum indicere*. And to make Aliens Denizens, is a Point of High Prerogative.

My Lords, This Trust that the King hath for making of War and Peace, and for the Defence of the Realm both by Sea and Land, it is a great Trust inherent in the Person of the Crown. No Man ought to mistrust where the Law doth trust. There is an Objection: If it should rest in the Power of the King, he might do it, where there should be no ground for it, and without cause, and cause Forces to be mustred, and Ships provided, where there is no eminent danger, in such a manner as it might be grievous to the People. These are Objections clearly against presumption of Law; for where the Law trusteth we ought not to distrust. The King, as appeareth by all our Books, is the Fountain of Piety and Justice, and will do right unto his Subjects, 1. Com' 240. All Justice is derived from the King, 13 E. 4. 8. The King can do no wrong, *Bract. lib.*

lib. 3. ca. 9. 8 H. 6. 20. Royal Power *de aver Correction de luy m'*; He is the sole Judge, and we ought not to question him, *Bract. Rex non habet Superiorem nisi Deum*, 11 Rep. 72. The King is the Fountain of Justice and Common Right. And the King being the Lieutenant of God cannot do wrong, 17 E. 3. 59. The King could not be made an Instrument of coven and fraud, but the Patent was void, 5 Rep. 14. That Religion, Justice and Vertue are the sure supporters of Crowns and Diadems, 24 E. 3. 42. Stamford's Pleas of the Crown, 72. At the Common Law, if the King commit a Man by his *Bouche*, he is not replevable. The Law doth not distrust where the King committeth a Man; but it is upon just cause, and we are not to doubt it. And therefore at the Common Law ca. 15. a Man committed by the King was not replevable. Nay, if he were committed by his Council, that was his representative Body, not replevable: Shall we then, when the Law hath committed this Power unto the King, who is the Fountain of Justice and Equity, who is trusted by the Law of the Realm, and the Common-Wealth, mistrust him? Shall we think that succeeding Kings will do that which is not fit to be done? I say, if the Law trust them, we ought to trust them. But for a further Reason; Those that are his Delegates and Judges ought not to be mistrusted. That which the Judge doth, as in his Office, shall not be assigned for error. If it be so in the Delegates Power, much more in the Primitive and Fountain, 5 Ma. Dyer 163. The Court of King's-Bench did receive a Record of *Nisi prius*, the *Postea* Returned by the Clark, and the death of the Justice of Assize assigned for Error, and could not be received. So 1 Ma. Dyer 89. a Writ of Error to reverse a Fine, *prout en Dyer*.

That is the reason of the Book 7 H. 7. fo. 40. 10 H. 7. 28. *Fitz. Nat. Bre.* saith the Books, he cannot assign for Error, nor shall not be admitted to alledge any thing contrary to the Office of a Judge, as to say the Judge did not give right Judgment, or the Clark did not make right Entries, *M. 7. E. 1. coram Rege*. And that is the reason why a Man of *Non compos mentis* in a Fine, and suffering of a Recovery, it shall not be assigned for Error against the Acts of a Judge, 8 Rep. fo. 121. Doctor Bonnor's Case, Record by a Judge or Justice of Peace not traversable.

(Good my Lords,) Then if by the Laws of the Kingdom one shall not be admitted to receive an averment against any Acts done by your Lordships, the Judges, against Acts done by inferior Judges; surely in this, where the King is absolute Judge, it shall not be averred, to say it was no cause of danger, or that is done by the King which ought not to be done.

Bract. lib. 1. ca. 24. est in Corone Regis. The King is so absolutely trusted with this Defence, that the Subject cannot make a Fort or Castle upon his own Free-hold without the King's Licence. That appeareth in the old *Magna Charta*, fo. 162. Enquiry made of those that do build Forts and Castles without the King's Licence, *Rot. Parliament. 45 E. 3. N. 34. 6 H. 4. 59.* and in a Book of Long, 5 E. 4. fo. 129. That a Subject cannot make a Fort or Castle without the King's Licence, not in his own ground.

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My Lords, The King hath so discharged this Trust, that though there were no account unto his Subject, yet these Ships that have been commanded, was but *ad proficiscend' cum Navibus nostris*. The King hath been at greater Charge with these Ships gone out, than ever any King of *England* ever was, as will appear by those vast Sums of Money the King hath spent these years, besides what hath been contributed unto by his Subjects.

My Lords, I have done with my first Position, That the Kings of *England* have done this before the time of *William* the first: That it was an inherent Right in the Person of the King of *England*, and that the King is the sole Judge both of, and when, and how the dangers are to be avoided.

It hath been objected, that the King of *England* may do it, but how? It must be according to the Institution of the Laws of the Realm. There must be a Concurrent Power, a Politick Advice in Parliament; and so it may be done: But the King, either by his ordinary Power, or absolute, without the assistance of the great Council, he cannot do it, as hath been objected.

2. Therefore in the second place I shall come to the second thing I did propose, and that was, that the King, as he is King of *England*, that He alone, for this common Defence of the Realm, without the Aid of Parliament, that he may *Statuere*, &c. That the King, by advice of his Council, when he please may do it: That he may ordain several ways by the Institution of the Common-Law, by his Ordinance, by his Proclamation, by his Patent, by his Writs, and by his Judges. That this may be done by him; (1.) It is agreeable to reason; for Kings were before Parliaments, and then surely they might have done it. All Justice doth flow from the Crown; and originally, as it was in *Moses*, so it was in the Kings of *England*, only in the Kings Person: But afterwards the King did depute his Deputies, and gave other Powers. This is no conceit of mine, 12 H. 7. fo. 17. 6. per *Fineaux*. There was a time when there were no Municipal Laws, when Positive Laws were not established, when Kings did rule their People according to natural Equity; and then surely the King might ordain, no Man will question it; since there hath been Positive Laws, and Municipal Laws, the Kings of *England* they have ordained, as by these several Records cited appears. It appears by the practice that hath been since the time of *W. 1.* That the Kings of *England* in all those Writs, that they have ordained the issuing of those Writs; The number of the Ships, the times of meeting, the manner of Munition, and the stay for the Defence, *quam diu nobis placuerit*. I have made a Collection of what hath gone out by the King Himself, what *per Regem* and his Council, and what by the Advice of his Council, and with advice of Merchants and Ports-men. But they are so infinite, and so many of them, that I will not trouble your Lordships with Repetition.

These Ordinances concerning the Defence, they are suitable and agreeable to the Ordinance the King maketh in other Cases, wherein the King alone doth ordain, as by His Proclamation, *Claus. 24 E. 1. 3. ps. 2. M. 2. Dor.* The King by His Proclamation commanded all Earls, Barons, Knights, Esquires, and other Men

at Arms, That none of them should depart into Foreign Parts. *F. N. B.* 85. He agreeth it, and saith the Book, He that shall transgress this Proclamation, shall be fined for his disobedience. And this Command may be under the Great Seal, or Signature, or Privy-Seal: For, saith the Book, the Subject is to take notice of any of the Kings Seals. So in all Ages, *Claus.* 24. *E.* 3. *M.* 7. *Dors.* 4 *H.* 8. 11 *H.* 7. 23. The King granted a Proclamation for Recreations, as by *Justing*, or the like, that he may command *Jus* by His Proclamation. And if one of the Two that is fighting be killed, it is no Felony; but if done without the Kings Proclamation, it is Felony, 5. *Rep.* 114. The King, by His absolute Prerogative, may make any Coin of Money by His Proclamation.

13 *Caroli.*

Next place the King may ordain by His Patent alone, 40 *E.* 3. *fo.* 17, 18. The King did grant a Priviledge unto the Scholars of *Oxford*, That they should have the choice of Inns in *Oxford*, which was before there was any fair Colledge in *Oxford*: saith the Towns-man, this is my Free-hold, they cannot do it; say the Judges, this is a good Patent, and is in favour of Learning, and therefore a good Ordinance. So the Justices in *Eyre* may take up the principal Inn. If the King make a Corporation, is there any thing more usual, than for the King to give Power to the Corporation to make Ordinances for common good? 49 *E.* 3. 162. Shall it be so in the Creature, and not in him that makes the Creature? A Case or two upon every one of them. The King may ordain by His Writ, and that appeareth 9 *E.* 3. 16. A Writ of *Cessavit* against the Tenants of *Northumberland*: The Tenants have been mightily oppressed by the *Scots*; they petitioned the King, and said, they were not able to pay their Land-lords their Rents, by reason of those incursions upon them by the *Scots*, and desire stay of Suit; and there it appeareth the King did ordain by His Writ, those Suits upon those Reasons should not proceed against the Tenants for Non-payment of their Rents: out of the same Reason are the Writs of Protection.

Then the King and His Council may ordain; for that I find *M.* 4. *H.* 3. *Fitz. Dower* 179. Writ of *Dower* there brought by a *French* Woman; the Tenant of the Writ pleaded, That there was an Ordinance of the King and His Council, *quod nullus de Regno Franciæ*, &c. That is, that no *English* Man should be compelled to answer any *French* Man or Woman in a Legal Suit, till the *English* were answered in *France* to their Suits; there 39 *E.* 3. 7. *per Thorp.* The King and His Lords may make an Ordinance, which shall be binding as a Statute, *Rot. Fr.* 72 *E.* 3. *M.* 6.

Upon Ordinance of the King and His Council I can shew above 40 Writs that have gone out unto the Nobility, Clergy, Arch-Bishops and Bishops, and to all the King's Subjects, to aid for the Maritime Parts, *Rot. Fr.* 22 *E.* 3. *M.* 16. & 50 *E.* 3. *M.* 41. *Do.* 24 *E.* 3. *M.* 6. That of 24 is to those In-lands within six Miles of the Sea. 40 *E.* 3. *M.* 37. The like Writs awarded to most of the Maritime Counties, upon pain of the seizure of their Lands and Goods: So likewise for Provision for the Army the King and His Council hath ordained, both for Markets to be kept within such a distance of the Army, and Wine sold there; and no where else, *Rot. Sco.* 10. 12 *E.* 2. *M.* 13. *Dor.* So they have set down the

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number of the Men of Arms that every Town should be charged with, *Cl. 13 E. 3. ps. 1. 14. Dor.* with a Command, that they should destroy the Commonalty of that County, for the Wages of those Men at Arms.

My Lords, If the King may at all times of danger, by His Proclamation, by His Patent, by His Writs, by the Advice of His Council, surely in Cases of necessity it is much more, for *necessitas est Lex temporis*, where a Defence by Sea and Land is necessarily required, *M. 12 Car'* opinion, That Men might be compelled to bring in their Provision to the Market, whether they will or no, *5 E. 4. 6. 14 H. 7. 29.*

Jurors are by Law to hold together till they give their Verdicts; yet otherwise if the House be like to fall over their Heads, *38 H. 6. 11.* Upon a *Præcipe* the Tenants may be excused, if he could not pass the Waters.

My Lords, I find that in Legal matters the King, by the Advice of His Judges, who are His Council, may ordain, that the Judges are the King's Council in Legal Matters, *19 E. 3. 17. 4. Fitz. Judgment, 27 H. 6. fo. 5.* Court of *King's-Bench* called the King's Council, *6 E. 1.* the King and His Judges make certain explanations upon the Statute of *Gloucester*, as appeareth by *Magna Charta*; and what was done then by the Judges Advice, is the force of a Law at this day. So as you see by the Laws of *England*, as well in other Cases, as Cases of Defence, the Law hath given the King of *England* this Power to ordain for the good and safety thereof: I find that in all Ages, and in all Times, all the Incidents to a Defence, as well as this principal part, hath been given to the King Himself, as He is King of *England*. (1.) For the Murage of Towns, that the King hath commanded the Murage of Towns to be done at the Peoples charge. And shall His Power extend to particular Cities, as Towns? and shall not He command for the Defence of the Wooden-walls of the Kingdom? *Rot. Alur' 12 E. 3. ps. 2. M. 10.* The King commandeth, by Writ, a Place to be Fortified towards a War approaching, and every Man having Rent there to contribute, or be compelled by distress; this was commanded to be done, by the Writ, *Pat. 12 E. 3. ps. 3. M. 5.* appeareth it was done. The King imposed a certain Rate upon all Goods and Merchandizes that came unto *Kingston upon Hull*, and commanded, that this should be employed to the Walling of the Town. And this was *de voluntate Regis*; this appeareth *19 E. 2. ps. 1. M. 12.* There was the same Command for *Dover* and other Towns, same Roll in *22 Pat. 12 E. 3. ps. 3. M. 14. Dor.* A Writ for the repairing of the Walls of *Winchester* at the Subjects Charge, *Rot. ibidem M. 15.* The King by special Grant gave Power to the Major and Burgeses to Assess the Inhabitants for the Defence of the Town, *Claus. 1. R. 2. M. 12.* *Oxford* was commanded by the King to be fortified at the Inhabitants Charge, *Cl. 12 E. 3. ps. 3. M. 32.*

The King commanded particular Subjects to fortifie their Castles at their own Charges in time of danger, *Pat. 1. 8 E. 3. M. 9.* The King taketh the Castle of the Subjects into His own Hands in times of danger, *ad defendend' contra Inimicos, &c. Claus. 13 E. 3. ps. 1. M. 36. Dor.* the King, by the Advice of His Council, did ordain, That the Town of *Southampton*, *pro salvatione ejusdem*, should build

build a Wall. My Lords, The King may command the walling of the Town at the Charge of the Inhabitants; He may likewise command the Defence of the Kingdom by Sea. So for other incidents of Defence; as for erecting of Beacons upon the Sea-Coast, *Rot. vas. 11. 12 E. 3. m. 29. Dor. Combust' insigniis, &c. Claus. 1 R. 2. m. 4. Dor. de ordinatione pro vigiliis, &c.* So likewise the King in all Ages hath commanded the imbarging of Ships for the Defence of the Realm, and for all publick Service; this appeareth *Claus. 14 H. 3. m. 17. Dor. All Ships arrested that could carry sixteen Horse, Rot. Sco. 10 E. 3. M. 2. Dor. omnes Naves pro defensione, &c. Rot. Alm' 12 E. 3. M. 23. ps. 1. a. § 12.* For Imbarging of Ships for the Defence of the Realm. So likewise the King commandeth and appointeth who shall be Officers, who shall be Admiral of the Fleet, who shall be *Custodes Marit'*, as appeareth *Pat. 19 E. 2. m. 7. Dor. and in the same Roll, m. 10. Pa. 15. Jo. m. 6. Pat. 48 H. 3. m. 5. Claus. 23 E. 3. m. 5. Dor. and an infinite number more, then the Country paid the Charges of those who had Custodes Marit'*; that appears, *Fra. 21 E. 3. m. 31. Dor. Claus. 13 E. 3. ps. 1. m. 14. Dor.* The King when there was cause, He moderated the expence, *Claus. 25 E. 3. m. 16.* The King did order how much, and how long the County should pay for Wages, and commanded the stay of those that would have been gone before their time: And this appeareth *Pat. 48 E. 3. m. 4. Claus. 48 H. 3. m. 2, § 3. Dor.* then it appeareth by many Records, that this Guard of Sea-Coasts to be accordingly, as the King should order and direct, sometimes *per Regem, per nos § Concilium, &c.* and this appeareth *Claus. 23 E. 1. m. 5. Dor. Claus. 13 E. 3. pars 2. m. 14. § Pat. 23 E. 1. m. 1.* Sometimes the King out of His Royal Power, hath been pleased to give discharges unto particular Men, to be discharged from this *Custod' Marit'*; this appeareth *Claus. 23 E. 1. m. 5. Dor.* Ports discharged, because the Ships were in the King's Service, *Claus. 8 R. 2. m. 1. Discharge as to the Abbot of St. Albons, Pat. 12 E. 3. pars 2. m. 8. Pat. 12 E. 3. pars 1. m. 14.* Discharges *de Custod' Marit'*. Then the Power of punishing those Men who should neglect those Commands hath been always in the King, and to be punished by His Commissioners, or by His Writs, and that in a high manner. That there hath been Commands by Distress, by Imprisonment, upon seizures of Lands, Goods, and Forfeitures of all that they had; and this appeareth *Pat. 48 H. 3. m. 5. Dor. Cl. 48 H. 3. m. 3.* and a great number in the time of *E. 2. and E. 3.* The King hath so far medled in this Business, that though it hath been the Money of the Country, yet the King hath appointed the Pay-master, *Claus. 48 H. 3. m. 2.* In the Case of danger the King sendeth forth a Writ *de veniendo ultra debitum*; so when a Service was due, as by the five Ports, to find Ships, yet in time of danger command laid upon them, *ultra debitum Servitium*, as appeareth *Rot. Sco. 10 E. 3. m. 20. Cl. 16 E. 2. m. 13.* So all Arrays for mustering of Men between sixteen and sixty have been in all Ages, and by the King's Command to be in, and continue in readiness, so long as the King shall please, *Rot. Alm. 12 E. 3. pars 2. m. C. Dor.* So, my Lords, it doth appear by these Presidents that have been cited, by these Records, and by these Book-Cases, That the Kings of England in all Ages have given command, and made

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Ordinances by themselves, by their Council, by their Judges, by their Peers, and these Ordinances have been obeyed.

My Lords, I promised upon this Head to made it good, that in these times, and in these years, wherein there were Parliaments, that though the Parliaments did determine concerning the Land-Forces, and the going of the King's Army into *Scotland*, that yet the Parliament sitting, the King hath commanded the setting forth of Ships by His Writ; this was ever left unto the Royal Power. For the proof of this there was 24 E. 1. a Parliament, as appeareth in the Printed Books; yet we find in that year, the King hath commanded the setting forth of Ships at the Charge of the Subject, *Pat. 24 E. 1. m. 17.* Command to take up 100 Ships; and in *P. 24 E. 1. ex parte Regis, Rem' Exchequer Rot. 22.* Command, *pro Custod' Marit'*, 9 E. 2. Parliament holden at *Lincoln*; and yet in the same year Writs went out to provide Shipping, as appeareth by *Rot. Pat. 9 E. 2. pars 2. m. 26.* I find that there was a Parliament holden 12 E. 2. This appeareth in the Book of Statutes, *Rot. Sco. 11. 12 E. 2. m. 8.* The King recites certain Inrodes made upon the Men in *Northumberland*, *Et quod de Communi Concilio* held at *York*, *Ordinavimus*, &c. and Assigns the Earls of *Pembroke*, and Bishop of *Norwich*, *ad requirend'*, *Norfolke* & *Suffolke*, *juxta discretiones vestras Subsidium facere per Naves*, &c. *per tempus 3 vel 4 Mensium.* At this time there was a Provision by Parliament for the King's Service by Land, and for his Armies to meet him at *Newcastle*, and for two Reasons, why *Navale Subsidium* should be necessary: 1. To hinder the bringing of any Victuals into *Scotland*. 2. For the free entercourse of Trade, so as you in this year, wherein a Parliament was holden, this *Navale Subsidium* was commanded by the King's Writ without any Act of Parliament; though the Writ was for *Norfolk* and *Suffolk*, yet the like was for *Dorset*, *Somerset*, &c. It appeareth likewise 10, 11 E. 3. which were those great years of sending out of Writs, that then Parliaments were holden: and so it doth appear by the printed Book of Statutes; yet in that year of 10 *Claus. 10 E. 3. m. 37. Do.* a Writ directed to the Major and Bayliffs of *Bristol*, with a Command, that all Ships of 40 Tun, & *ultra*, should be seized, 10 E. 3. m. 21. *Do.* Command that the Ships should be sent forth for the preventing of danger; and that no Forreign Ships come in to aid the *Scots*, *Membr' 21 Dor.* same Roll, Command to the City of *London* to set forth Ships at their own Charge, *Sco. 10 E. 3. m. 21. Do.* Writs to the Sheriff of *Southampton*. So there were Men drawn out of their own County, and the refusers were called their Rebels, *Rot. ibidem m. 21 de Navibus pro defensione Regni.*

My Lords, There was something more observable in this year of E. 3. for some of the Writs that went out beareth *Teste 3 Octob. Sco. 10 E. 3. m. 7.* and mentioneth a Parliament, but did not go out by any Ordinance of Parliament; and by the Royal Power, which is a strong Argument, there needeth no Aid of Parliament for the King to command His Forces; 11 E. 3. was likewise a Parliament, as appeareth in the Printed Book of Statutes: Writ dated 10 Jan. 17 E. 3. m. 2. *Do. per ipsum Regem*; Ships are commanded *pro guerra super Mare, Vasc. 10 E. 3. m. 6. Do. Procla.* to several Counties,

ties, that all Ships be in a readiness; 12th year of E. 3. Parliament summoned at Northampton, Cl. 12 E. 3. pars 2. m. 1. same Roll, pars 3. m. 22. Do. and yet this same year the King commanded Shipping at the Charge of the Counties, as appeareth 12 E. 3. pars 1. m. 12. Cl. 12 E. 2. pars 3. m. 29. And in the 13th year of E. 3. was likewise a Parliament holden; and that appeareth Parl' 13 E. 3. m. 9. 12. Printed Statutes make no mention of a Parliament then.

My Lords, In this Record these things are observable, cited, and made use of by the Defendant's Counsel, a strong Record as any can be against them.

In that Parliament, the King He did pray the Advice of the Commons in Parliament, touching His Wars with France, and the guarding of the Sea-Coasts: The Commons make answer, *Prient les Commons que ils ne Counsel doner al choses de quel ne pas Conizance*, &c. They say further, and they grant, That the Maritime Towns ought to make the Guard upon the Sea without Wages taken, and the In-land Commons upon the Land. Two things that are observable in this Record: 1. When the King to descend so low as to pray the Advice of the Commons in Parliament, and Assistance, for the Guarding of the Sea: The Commons disclaimed and said, they have no Jurisdiction &c. And yet the Defendants Counsel did Press, that now the King should ask the Advice of the Commons in Parliament, a thing disclaimed 13 year E. 3. to have any Jurisdiction. 2. By this Record the Maritime Parts ought to guard the Sea at their own Costs; this though it be granted in their Petition, it was not granted by the King: For it appeareth in the same year, Rot. Alm' 13 E. 3. m. 13. Do. that King Edward in that year heard of some Preparation in France, commanded Ships for three months, Cl. 13 E. 3. pars 1. m. 14. That in several Counties Men were distrained for payment of Wages for the Archers, and others that guarded the Sea-Coasts. It appeareth by those Records, that both the Guard of the Sea and Sea-Coasts was done *juxta Ordinationem nostram*, Order made by us and our Counsel, Rot. Alm' 13 E. 3. m. 15. Do. The King appointed the Arch-Bishop of York, Hugh de Peircy et al' for that purpose, &c. So, my Lords, I have done with the second Ground, that is, That the King is sole Judge of this, without His Parliament.

That the Commons in Parliament have disclaimed to have any Cognizance of it.

That in the same year where Parliaments were holden, the same years the same Writs have issued without Advice in Parliament.

The third thing that I did propose, was those *Supreme Titles* which the Common Law of England giveth unto the King, which may inforce this. Bra. lib. 2. Cap. 24. saith, That the King is *Vicarius Dei*, His Power surely, as was agreed, is *Jure Divino*; God is the God of Hosts, and the King is a Model of God himself, 40 E. 3. fol. 18. The King is the chief Guardian of the Commonwealth. The Sheriff hath *posse Comitatus* under the King, the King's Vicegerent in his County; this Power not only for the execution of Legal Process, but for the Defence of the Realm, 12 H. 7. fol. 7. This delegate Power of the Sheriffs, is as well for Defence,

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fence, as Execution of Proceſs; Shall the Sheriff do it and not the King? 10 H. 3. fol. 1. The King is the Conſervator of the Law, 20 H. 7. fo. 4. *Rex eſt Capitalis Juſticiarius totius Angliæ*; He is not only to maintain Juſtice in Courts of Juſtice, but to protect and defend His People. *Stamford's Prerogative Cap. 1.* The King is the moſt worthy part of the Body of the Common-Wealth, Preſerver, Nouriſher, and Defender; and by this they enjoy their Lands, Goods and Lives, 11 Rep. 7. 6. *Maudlin Colledge Caſe.. Rex eſt Medicus Regni, & ſponſus Reipublicæ*: It is the part of a good Phyſitian, as well to prevent Diſeaſes as to cure them; and an Office of a good King, as well to prevent danger as to remedy it, *Com' fo. 130.* He is the Soul that animates the Body of the Common-Wealth, and we ought to move as He moves. 11 Rep. fo. 72. the fountain of common Right; therefore we have no reaſon to ſtain the Fountain. I am now come unto my fourth Proof, which is by Preſidents; wherein I ſhall be ſomewhat long; and therefore I humbly crave leave to argue another day.

The End of Mr. Attorney-Generals firſt day's Argument.

*Mr. Attorney General his ſecond day's Argument
for the King in the Caſe of Ship-Money,
Dec. 1637.*

MA Y it pleaſe your Lordſhips to remember I ſhewed you by Charters, Aids, and by a great number of Preſidents, that this Regal Power was in the King of *England* before the Conqueſt; and that though ſome were exempted from the ſetting forth of Ships; by Grant unto ſome particular Men, or ſome particular Churches; yet theſe three fundamental Services of Expedition, repairing Caſtles, and making of Bridges, &c. were always excepted: Then I ſhewed by a great number of Preſidents, that not only the Principals, but all Accellories that concern the Defence of the Realm, both by Sea and Land, have been always commanded by the Kings; the fortifying of Towns and Caſtles, and the Murage of Towns, the appointment of Admirals of the Fleet, and thoſe that ſhould be Guardians by Sea and Land, the Imbarging of Ships, and Arrayes of Men, erection of Beacons, diſcharging of others upon juſt cauſe, by puniſhing of thoſe that were Rebels; and all this was done by the King's Command, *per ipſum Regem, aut per Regem & Concilium*, without any Aid in Parliament. Likewise I have made it appear unto your Lordſhips, That the King is the *Sole Judge* of the Defence, that the King is not to be miſtruſted in the execution of His Office as King, nor your Lordſhips as Judges are to be miſtruſted.

I have now ſhewn out of the Preſidents, That in thoſe years, wherein there have been Parliaments, and ſometimes ſitting the Parliament, Writs have iſſued *per ipſum Regem, aut per Regem & Concilium*. I ſhall now proceed to make good the other Particulars which I have opened unto your Lordſhips. 1. That theſe Preſidents which have been ſhewed, and which I ſhall ſhew unto your

your Lordships, that they have not been grounded upon any particular Covenant, Charter, Custom, but upon the Law of the Land, and upon such reasons as are universal, and binds all the King's Subjects, as well Clergy as Laity. For this I shall remember *Cl. 48 H. 3. m. 3.* The Writ doth recite, *Quod tam Milites & Liberi tenentes & omnes alii, &c. ad defensionem Regni teneantur, Cl. 9 E. 3. m. 11. pro defensione Regni omnes teneantur, Sco. 10 E. 3. m. 12. Quia quod omnes tangit per omnes supportari debet.* And the same Roll, *m. 20. Do. Ex ligeantia ad defensionem contra hostes Aggressus Inimicos manus apponere, Malm. 12 E. 3. m. Do. omnes & singuli tenentur, & se & sua exponere, same Roll m. 21. Do. omnes & singuli ad defensionem Regni sunt astricti.* And I think every Man will acknowledge himself to be bound out of his Allegiance, *Malm. 13 E. 3. m. 13. Do. ex ligeantia ad defensionem Regni, & vestrum & vestrorum, same Roll m. 17.* and there be several Writs unto all the Bishops of *England, quod invenerint homines ad Arma pro defensione;* Frankalmaine Tenure was no Plea against this Service, *Rot. Franc. 46 E. 3. m. 34.* There was a Writ directed to the Bishop of *Canterbury* for the Arming and Arraying of all Ecclesiastical Persons within his Province; the like to the Bishop of *York* for the Arming and Arraying of all Ecclesiastical Persons within his Province; the like to the Bishop of *Durham* in the same Roll; so it extends to all the King's Subjects, and to the Clergy as well as to the Laity: Nay, it doth appear, that these Towns, and these Ports, that were obliged to do particular Service; that yet in case of an extraordinary Defence, that there the Writs went out not only to perform the ordinary Service, but Services *ultra debita.* The Cinque-Ports, by the Charter *E. 1.* was to set forth 52 Ships at their own Charge for 15 days; yet we find by divers Writs, and in several Kings Times, that the five Ports have been required to do further Service, Arrests have been made of their Ships *ultra Servitia debita, Sco. 10 E. 3. m. 23. Do. 28. Do.* There was a Command, That all their Ships of 40 Tun should be arrested for the King's Service; and so likewise, same Roll *M. 22.* That all Ships of the five Ports, *tam majores quam minores* should be arrested, *Malm. 13 E. 3. m. 13. Omnes Naves qui transire poterint* arrested to the five Ports; so then for the Council on the other side, to tell us of particular Rolls, that these and these Towns were obliged to do these Services; this, under favour, is no Warrant, for though they be obliged to do these Services; yet upon the occasions to take all their Ships *ultra Servitia debita, Cl. 16 E. 3. m. 13. Do.* The King writeth unto divers Earls, Barons, and others, in this manner, *Quod sint tam citius, &c. quam poterint parati,* at such a place beyond your Service, with Horse and Arms, and come to our Town of *New-Castle* upon *Tyne*; so as the Writ was directed to all the Lords Spiritual and Temporal, and all the King's Subjects, but not only with their due Service, but beyond their Service, to be at *New-Castle*; so as your Lordships see the Motives, the Grounds, and the Reasons of these Writs are universal, they concern not particular Port and Subject, but all the King's Subjects, and they are generally *ex ligeantia sua debita*; so as that is the first thing I would observe unto your Lordships, That these Writs and Presidents are grounded upon the Law of the Land, and not upon particular Trust.

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The second is this, That all these Writs have issued by the King's Mandate, either by the King, or by the King and His Council, without Advice in Parliament, of which I have made a Collection, which is better for me to attend your Lordships withal, than to cite them, because there are above 500; wherein I have distinguished what hath been awarded *per Regem*, and what *per Regem & Concilium*, and where the advice of particular Merchants and Portf-men were required, *Scot. 11 E. 3. m. 2. Do. 19 E. 3. pars 1. m. 26. Do.* And in these the Advice of particular Men were called to assist the King and His Council. Now, my Lords, if before the time of *William*, and since the time of *William* the first, for many hundred years together, that this hath been done, shall not these Presidents make a Law-Rule of our Books? that Presidents that are not against the Law, nor contrary to the Rules and Reasons of the Law, they make a Law; that appeareth by *4 E. 4. fo. 43.* The Chancellor sent forth a Writ of Error, the Judges take exception both to the matter and to the manner, saith the Book, because it hath been always used; for the Presidents make a Law, though the Writ were contrary to Law and Reason, *33 H. 6. fol. 20.* An absurd Return made by Sheriffs, yet because Presidents to warrant it, a good Return, *20 R. 2. fo. 7.* Where a Duty was to be paid to a Corporation of Major and Commonalty, the Duty being to be paid to the Body, and an Acquittance to be had from them; but because it hath been used, the Major alone to make the Acquittance, a good Acquittance, *2 Rep. Lanies Case.* The King shall not part with his Interest without the Great Seal: But yet a Lease for years, under the Great Seal of the *Exchequer*, good by Custom, *4 Rep. 9.* That the Presidents of a Court are good against the express words of a Statute: Having so many Presidents, I will not trouble you any longer, though I have reserved a special place for the answering of Objections; yet to such Objections as fall materially in the way I shall give an Answer, though reserve the Answer of the main Objection unto the fifth place. It hath been said by Mr. *Holborne*, That there hath been a discontinuance of time; and that since the time of *50 E. 3.* none of these Writs have issued: Shall discontinuance of time take away the King's Right? If there have been no use within the time of memory, yet if this have been an inherent Right in the Crown of *England*, shall the Crown lose it by discontinuance of time against the Rules of Law? *10 H. 4. fo. 6.* Where the King is a Founder of a Bishop or Abbot, and is by common Right to have a Corody, though not used, that the King hath not demanded it in time of memory, yet the King shall not lose it, *N. B. 5.* Writ of Right brought by the King, wherein must alledge Seisin, will you bind the King to alledge a Seisin in Him and His Progenitors? For if once the King had a Seisin, protract of time shall not discontinue it, *22 H. 7. fol. 20.* The Stat. of *Mortmaine* confineth the Lord to enter within a year and a day; but it shall not bind the King, for He may do it at any time, *35 H. 6. fo. 26.* If a Villain do alien the Land, it bindeth not the King, *Plenartie 6 Month no Plea against the King, 6 Rep. 20.* No discontinuance of time if the King hath a Right, *7 E. 4. 30.* If an Alien and another Man purchase Lands together, and the Alien die, the King shall not be prevented by Survivorship, and

and in Personal Goods you shall raise no prescription against the King, 35 H. 6. fo. 27. there is no Man can pretend a Title to the Kings Goods, for Waifs, Strays or Wrecks, for no prescription can invade the King's Profit, but then they say, that the Presidents are not in all times, for we have not shewn, nor cannot shew, that in all times these Writs have issued. A strange objection in all times. My Lords, It is a casual Service. In all times, God be thanked, not that occasion or necessity of this defence: Will you have us shew Presidents for a Casual Service? 4 Rep. 10. If a Man hold to do Service to his Lord, to go with him into the War of the King, this is out of the Stat. of Limitation; for it may happen not once in 200 or 300 years; therefore the Law doth not require you should have a Seisin for this, for it is casual; that is the reason that Homage and Fealty and casual Services, they are out of that Statute of Limitations; so as now by the same reason, that they would tie us to Presidents, where there was no occasion; by the same reason the Tenants are to do Homage, or go into Wars, when there was no occasion; but besides, he is much mistaken, for these Presidents did not end with E. 3. 7 R. 2. m. 18. 13 H. 6. m. 10. 14 pars 1. m. 14. a great number of Ships commanded then in the King's Service; but it hath been said, That the People have always petitioned against it, and there hath been a decrying by the People; they have petitioned in Parliament, and these things good by Custom, must gather strength by a consent; and that further, when Petitions have been preferred, the King hath not denied the Petition expressly.

My Lords, I shall shew, when I come to a particular Answer to these Records and Petitions, that they have mentioned, That notwithstanding these Petitions, this Service hath been always continued; and for the Answer that he speaketh of, that they have not been denied: These are the words, *Le Roy adviserà*; we may know whether this be an express denial or no; so though the King take time to advise of the Parliament, of His Commons, this is no Argument, but that it is a *mannerly kind of denial*; besides, in the very years of 13 E. 3. the Writs for the Shipping Business went out by the Royal Power for the same year; then it hath been said, that we can make no Presidents of this; for though Writs have gone out, yet it doth not appear, that these Writs have been put in practice, nor any execution of it; but the Services have been done, as appeareth by the Monuments of Times; then it doth appear by other Records, that the Wages of Mariners were paid by the Country these very years, Cl. 20 E. 2. m. 6, 7. It doth appear, that some particular Men that had particular discharges, either because they were in the King's Service, or in *Gascoigne*, or lived in the Sea-Coasts, that they pleaded their discharges, and had the same for that reason, 23 E. 1. m. 14. So as, my Lords, upon this second Ground, that these Writs have gone forth thus constantly in several Ages, that there being such a number of Presidents, that the discontinuances have been even when there was no occasion: That the Presidents of the Courts of Justice make a Law, and discontinuance cannot take away the King's Title. This is the second that I do insist upon, and that these Presidents make a Law.

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The third thing I shall observe upon these Presidents is this, that these Writts have gone forth, not only in Cases of an actual War, or in cases of an Invasion, when the Fleet hath been upon the Seas, but by way of preparation before-hand, when the Enemy meant to come, and in contingent Cases when the King might conceive any danger might ensue, but in these Cases Writts have issued, that will appear, *Cl. 48 H. 3. m. 2.* the Writts are here in Court, *cum necesse sit ad defensionem Regni esse promptum, &c. Cl. 23 E. 1. M. 5. dorf.* there was several Writts directed unto divers Earls, Bishops and others *de Custod. Marit.* the words are these, *quia volumus quod partes Marit. in Com. Essex, &c. contra Inimicos diligenter custodiend. partes illas si venire contingent, 24 E. 3.* Remembrance in the Exchequer upon information that there was 1000 Men in *Flanders*, and preparation to come unto *Tarmouth* to burn the Town, Writts sent forth by the Treasurer and Barons *ex officio* to be in readiness, in cause there was Invasion, *Pat. 9 E. 2. pars 2. M. 26.* Writts directed to all the Port Towns between *Southampton* and *Thames*, to set forth Ships at their own charge for the better defence of the Kingdom, and against others that commit depredations upon the Sea, as well to our men of this Kingdom, as to others coming to our Kingdom, *Sco. 11. 12 E. 2. M. 18.* the King by several Writts directed to the several Commissioners in several Counties, reciting the provision made for his Army in Land at the last Parliament, and saith, *nos considerantes ad expeditionem præd. tam ad impediend. Scotos quam pro Custod. Maris, &c.* And so commandeth for that purpose, that Ships should be sent forth out of several Counties for these two Causes, The one to hinder Victuals going into *Scotland*, the other for free entercourse of Trade, that appeareth in the 10th year of *E. 3.* that the Ships of *France* were not upon our Sea-Coasts, but were in *Britain* and in *France*, and yet the King upon relation that they have an intention to invade the *Realm*, did send forth for the providing of Ships into most parts of the *Realm*, this was only upon information, *Sco. 10. E. 3. M. 30. ut audivimus M. 13. ut intelligimus, M. 16. 22. quod auditum, M. 18. do. 12. do. 5. do. in portibus transmarinis parat.* so by the Records this preparation of Ships was only upon information, *Fra. 26 E. 3. M. 5. quia vulgaris opinio nostrum Regnum Angl. invadere,* therefore commandeth Shipping by Sea, and Forces by Land, *Fra. 10 R. 2. M. 23, 24. quia cert. Rumores quod Francia infra breve tempus hoc Regnum invadere,* and for the rest commandeth the custody of the Sea and the Sea-Coasts, so as it doth appear by these Records, that upon an Information or Conjecture of the King, that he may send forth these Writts, and command His Subjects to be in readiness in case that danger might happen, better so than to receive a blow, and then to make preparation for defence, we should buy that with repentance, *prudentissima ratio qui timor Belli, &c. præparavit,* and surely when the King seeth these preparations abroad, the great Armies in adjacent Countries, great reason we should be in preparation; this is not only consonant to Presidents, Wisdom of Time, Policy of State, but to the reason of our Common-Law. If a man be in fear that another man lyeth in wait for him to do him a mischief, shall he stay till he receive a wound? *17 E. 4. 4.* in this Case he may have a Writ

a Writ to bind him to the Peace, 13 H. 7. fol. 17. if a man have a warranty for his Land, shall he stay till he be impleaded? No, a *Warantia Charta* lyeth till he be impleaded. If Lord and Tenant in antient demesne, and the Lord will require that other services of his Tenant than he ought to perform, shall the Tenant stay till there be a Distress taken, nay, he shall have his *monstraverunt*, F. N. 40 E. 3. fol. 45, 46. and this only upon a verbal demand of services; shall then the Common-Law of *England* secure the Subject not to stay till a present danger, but shall have his *war' Charta monstraver'* before Distress taken, and shall not the Common-Law provide for the King, that he in his expectation of danger make his preparation, for surely these Presidents are according to reason of Law.

The next thing that I did observe out of these Presidents was, that in these very years where there have been aids granted to the Crown, *pro defensione Regni*, and in the very year these Writs have issued out of the Royal Power, Cl. 48 H. 3. m. 2, 3. dorf. there was then a tenth given by the Clergy *pro defensione Regni*, and yet in that year he did command the defence of the Realm both by Sea and Land, and that appeareth Pat. 48 H. 3. m. c. dorf. Cl. 48. H. 3. m. 30. in the 22 E. 1. the King had given unto him in Parliament *pro subsidio guerra* a tenth of all moveable Goods which was to be collected in the 23d year, as appeareth Pat. 22 E. 1. m. 2.

My Lords, This very year wherein this was paid, he commanded a great number of Shipping for the defence of the Coasts, and that appeareth Pat. 23. E. 1. m. 6. Writs were directed unto divers Sheriffs of divers Counties, *Suffex, Southampton, Dorset, &c.* commanding them to be aiding and assisting to *William Thornton* in the taking of all the Ships of those Counties, Pat. 23 E. 1. m. 7. Commission. *Radulphus de Salvica ad providendum de Navibus, ita quod fuit quandocunque mandamus*, so to be in readiness with all Ships in those parts that were of 40 Tunn, m. 5. same Roll, Writs directed to most of the Sheriffs of *England* to be assisting to *John de Barwick* to the chusing and sending forth Archers *ad proficiscendum in Fleta nostra*, so as they were not only brought out of their own Counties, but out of all the Counties in *England ad proficiscendum*. My Lords, This 23d year wherein the grant was of the tenth of all the moveables, Pat. 2. E. 1. m. 7. the King writeth to all the Archbishops, Earls and others, reciting that he hath committed the Custody of the Sea to *Will. de Stocks, ita quod idem Will. omnes, &c.* naming the Archbishops, Bishops, Earls, &c. *compellere, &c. prout necesse fuer.* so as you see the greatest Subject is not exempted from these Commands, but should be *auxilantes, respondentes & intendentes*, Cl. 23 E. 1. m. 5. dorf. the King commanded the Bishop of *London* and *Norwich* for the safeguard of the Sea-coasts, Pat. 23 E. 1. m. 1. A Command unto all Archbishops, Abbots, Earls, Barons, Knights, and others, commanding them to be aiding unto *Adam de S. ita quod idem Adam compellere posset quoties necesse, &c.* so Cl. 23 E. 1. m. 5. dorf. the like Command; so as, my Lords, in those times which were 23 E. 1. when there was an aid granted by Parliament, it doth appear these great defences both by Sea and Land were commanded.

My Lords, 10 E. 3. in a Parliament holden at *Nottingham*, there was a fifteenth granted to the King for three years, and so it was

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In the same year of 12 E. 3. the Clergy, they gave the King in Parliament *medietat. Lanar. usque viginti mille Saccar.* as appeareth *Cl. R. 12 E. 3. pars 3. m. 13.*

Cl. 12 E. 3. pars 2. m. 1. dorf. and in this 12 year of E. 3. the King collected a tenth and fifteenth that was granted unto him by the Laiety in Parliament, as appeareth *Cl. 12 E. 3. pars 3. m. 30. 1. § 28.*

And besides all this the Clergy gave the King a tenth *Cl. 12 E. 3. pars 3. m. 30. 1.* these I cite more particularly because no memory of them in the printed Statutes.

Were all these Aids granted 10, 11, 12 E. 3. *pro defensione Regni*, and shall the King in these very years send forth Writs for the defence of the Sea and the Kingdom? Now, my Lords, in this 12th year wherein all these great aids were granted *Rot. m. 12 E. 3. 1 pars m. 12.* that *Walter de M.* was appointed Admiral of the Fleet towards the North, and appointed Commissioners *ad assidendum Villas bonis & Catallis ad contribuendum, &c.* and Commanded all Sheriffs and Officers to be assisting, so as by this Record it doth appear that in the 12th year Ships and Forces were commanded, *Cl. 12 E. 3. pars 1. m. 17. dorf.* Commanded by the King, that the men of *Surry* and *Sussex* should have their Goods seized, and their Persons imprisoned if they refused to contribute towards the charge for Shipping. *Alm. 12 E. 3. pars 1. m. 2.* a Commission to *William de B.* and others, *ad assidendum Omnes homines juxta statum, &c.* and to seize their Goods and Chattels to contribute for the wages of Mariners for the Ships, so as your Lordships see by that Record, though there be Aids, Tenths, Subsidies and fifteenths granted by the Clergy and Laiety, yet in that very same year if any extraordinary occasion, though Ships not upon the Sea, the King hath commanded the defence of the Sea and Land at the charge of the Country; I have done with the fourth particular.

The fifth particular is this Aid, and these Contributions, they have not been required from the Maritime Towns, but from the Inland Counties *per totam Angliam*; and this materially is to be insisted upon, because we are more in an Inland County, the County of *Bucks*; my Lords, this was done before the conquest, your Lordships have heard, for *Alfred* the first Monarch 827. *jussit omnibus, &c. per totam Angl.*

Arthunus Minuensis fol. 9. Wigor. Florenz. Fo. 316. Huntingdon 354. that King *Elthred* did the like 1008 *per totam Angl.* every 310 Hides to find one Ship. *Mat. of West. 387. Huntingdon 365.* about 30 year of King *Ethelred* was that Ships should be prepared against *Easter*; and those Laws which are remembered in *Lambert* which were before the Conquest 10. *Cap. fol.*

fol. 106. quod, &c. — &c. so it was general and universal throughout the Realm, concurring with these antient Presidents and Councils since the time of Will. the first, Cl. 48 H. 3. m. 2. For where a Record is to be applied unto several purposes, I must mention the Record: again it appeareth by the Record of *Bedfordshire*, which is an Inland County, was charged with the guard of the Sea-Coasts, and paid for Wages, same Roll m. 3. in M. 20. dorf. *Rutland*, *Oxfordshire* and *Dorsetshire*, Inland Counties, charged for the same services, Pat. 48 H. 3. m. 7. *Cambridge* and *Huntingtonshire* charged for the like service, and that they should do prout Concilium nostrum ordinatum, &c. 24 E. 1. King's Remembrancer fide Rot. 77, 78, 79. title de — pro Custodienda Maris, and Writs went out for Ships into divers Counties, and amongst others to *Buckshire*, Pat. 26 E. 4. m. 21. when there was a complaint that the Subject did suffer upon undue levies, the Commissioners that are directed for enquiry, directed to all the Counties of *England*, as well Inland as Maritime: It proveth this Custody of the Sea was as well by the Inland Counties, as by the Maritime, 23 E. 1. Pat. m. 5. that men to furnish a Fleet were drawn and commanded from the most parts of the Kingdom, Sco. 10 E. 3. m. 14. Inland Counties charged with Shipping for the defence of the Kingdom, as *Cambridge*, *Huntington*, *Nottingham*, *Darby*, Cl. 13 E. 3. pars 3. m. 14. dorf. And there *Oxfordshire* is charged with Custod. Marit. Sco. 12 E. 3. dorf. de *Bedfordshire*, *Buckinghamshire* (your County) and *Darbyshire* there charged with the same defence, Cl. 1. R. 2. M. 18. there *Cambridge* and *Huntington* were to provide a Barge at their own charge, and yet no seafaring men there, and like Writs were directed to *Nottingham* and *Darby*, though they had none, yet they had money and means to provide them.

Fra. 7. R. 2. m. 18. The King sends His Writs into most Counties of *England*, as well Inland as Maritime, reciting that the King of *France* was gone with an Army into *Flanders*, that *Callice* was in danger, and commandeth that all Knights, Esquires and Archers, and every of them according to their Estate and Faculty be sufficiently arrayed and armed, and come to the Port of *Sandwich* ad proficiscendum, &c.

My Lords, In this Record there was mention of *Buckingham*, *Bedford*, *Huntington*, *Cambridge*, *Nottingham*, *Darby*, *Exeter*, *Rutland*, *Northampton*, *Bucks* and *Berks*, all these Inland Counties; the words of the Writ are, quod omnes tenentur pro defensione Regni, Cl. 9 E. 3. m. 12, vel 20. quod, &c. all and every of our Kingdom out of their Allegiance to be ready to defend the Realm, 13 E. 3. dorf. a great number of others, by all which it doth appear, 1. That the service was commanded from those Inland Counties. 2. That the same reasons which are given extend to bind the Inland Counties as Maritime Counties.

Pat. 23 E. 1. m. 6. for the taking of Ships in the County of *Sussex*, *Devon*, *Middlesex* and other Counties, if so be the Maritime Counties be in danger, surely the Inland Counties cannot be in safety; we are in an Inland County, and if an entry upon any part, it concerns the safety of us all.

And by the rule of the Law, every one that is to receive a benefit, is to give a Contribution, as the Case of 16 H. 7. fol. 13.

All

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If 4, or 5. Cognizors in a Recognizance, all shall have Contribution one against another 46 E. 3. Parceners upon whom a warranty descendeth, they shall be equally charged.

If a man bind himself and his Heirs in an Obligation, having Lands, part by his Father and part by his Mother, and descend to several Heirs both equally charged, as it is the third Rep. 13. *Herberts Case*, so I go upon these reasons, that it is constant to Reason and the Law, besides these Presidents, that where a danger to all, and receiving of benefit by all, all be equally charged.

My Lords, To illustrate by further reasons, that though the Inland Counties and Maritime Counties be charged, I find that the Ports by the Charter of E. 1. were to find 57 Ships. I find that when the necessity of the service did require it, then all their Ships were seized into the King's Service, I find likewise that when there hath been a disability in the Port to perform the service as now they are, for then the main part of the Trade was in the Port Towns, but now it is gone from thence and come to London, and few Ports have the Trade, but London, Newcastle, Bristol, Hull; and shall it not now be required by the Inland Counties since a disability in the Ports, *Fra. 21 E. 1. m. 23*. I find there that *Plimouth* and some of the Port Towns did bear more than London; for *Plimouth* found four Ships, *Dartmouth* six, *Bristol* four, *Newcastle* three, *Norwich* and *Tarmouth* four, *London* two, *Hartipool* two, *Sandwich* two, *Dover* two, *Rye* two, *Shoram* and *Arrundel* and other places found but one; it appeareth, *Alm. 13 E. 3. m. 13. dor.* that *Tarmouth* furnished at their own Charges four Ships, *Kingston* two, *Boston* two, *Lynn* two, *Harwich* two, *Ipswich* two. My Lords, Are these Ports able to furnish the King with so many Ships in these days to do these services? the wealth of one Portsman in those days was worth the whole Town as it is now; admit the Maritime Towns were bound unto it, yet of a failing of the ability that they cannot do it, shall it not elsewhere be required, that is agreeable to the Rules of the Law; before Commissions for Sewers where particular men are bound to defend the Sea, yet before any Statute in Case that the man was not able, the service was required from the County, for by it they might have either gain or loss, this appeareth by the Rule of the Common Law before the Statute Register 123 *quod distringat omnes*, &c. when one man was to maintain the Bank of the Sea, if not able, the rest that have benefit by it were to be distrained for it, 5 Rep. fol. 99. 10 Rep. 140, 141. Case of the Isle of *Ely*, agreeable that all men who have *salvationem & damnum* shall contribute.

To this purpose are those two Records remembred by Mr. Solicitor, Pl. 7. H. 4. No. 18. that where there was a Subsidie granted to the King for the defence of the Realm, was assigned to certain Merchants, yet with a *salvo* unless a Royal Power come, fr. 6. R. 2. m. 8. certain Merchants had the custody of the Sea, except *Regal. potestatem*, so the conclusion is, if an ordinary defence there may be no cause to go into the Inland Counties; but if a Royal Power or extraordinary danger, though not eminent, the King may require an extraordinary Contribution *per totam Angl'*; but this hath been objected against

against, and some Records have been vouched; that is (say they) we will shew you many Presidents, wherein the *Navale Subsidium* hath been required from Inland-Towns, and they have been discharged thereof, as *Pat. 2 R. 2. pars 2. M. 42. Dor.* the Town of *Beverley* Petition, because they were to contribute, being an Inland-Town, towards the finding of a Ship for the Town of *Hull*, and was discharged thereof. This Truth, but not the whole Truth; for the Town of *Beverly* was discharged by reason of a Charter of Exemption granted unto them *in honorem Sti. Johannis Beverly*, the King's Confessor; upon that Charter were discharged: They have objected likewise for the Town of *Bodman*: They were discharged *a Custod' Maris* an In-land Town in *Cornwel*; for this, *Cl. 13 E. 3. pars 2. M. 14.* was vouched for it, that the Town was discharged of this Contribution; for Answer unto that it will appear, that one *Trussel* was then Admiral of the Fleet, and was by his Commission to be furnished from the Ports at their own Charges for three Months.

My Lords, this appeareth *Cl. 13 E. 3. pars 1. M. 35.* and so that Town and In-land was to be discharged.

My Lords, likewise there were other discharges upon that Reason, as *Norwich* was discharged for finding of Men, for making of Ships, because the Admirals Commission did not warrant it, *Seco. 10 E. 3. M. 15.* for it only extended to the Ports; but yet *Norwich* was charged to find Ships, *Cl. 13 E. 3. pars 1. m. 14.* So *Colchester* was discharged from finding of a Ship; but because they were not within the words of the Writ, as appeareth *Cl. 13 E. 3. pars 1. m.* So as to tell your Lordships a Story of a great number of Land-Towns discharged *de Custod' Marit'*, and not to give your Lordships the reason, it's nothing to the purpose.

So, my Lords, having verified this fifth Point by these Presidents, and justified by these Reasons, and answered these Objections, I shall now come unto the sixth matter upon this Record.

And that is, that though no cause be declared in the Writ, no danger manifest, nor against what Enemy; that yet the King's Writ hath commanded Shipping both for Defence of Sea and Land; and in the King's Wisdom, the danger hath been reserved in His Breast, and not communicated to His People by His Writs.

1. I find that ancient Presidents have been so, that it hath been reserved unto the King Himself, and those whom He did depute; that appears *Cl. 14 Jo. m. 2.* The King directed His Writs to

Herbert, with a *Mandamus* to make ready all Ships for our Service when we shall command; not a word of a Cause declared, or an Enemy proclaimed; same Roll *m. 6.* The King by Writ directed unto other Parts, causeth all Ships that could carry six Horses or more to be sent unto *Portsmouth*; and the like Writs were directed unto other Parts, *1 Pat. 15 Jo. m. 4.* The King appointed a Guardian upon the Sea-Coasts, and commandeth all Men that they should be *Intendentes*, and other Writs in the same Roll directed into many Counties with a *Mandamus*, *17 Jo. Cl. m. 7.* Do. Writs for the taking of Ships, and bringing them into *Thames* mouth, without shewing any cause. All this was done in the time of King *John*.

In the time of *H. 3. Pat. 13 H. 3. m. 5.* a Writ commanding the Sheriffs of *Kent* and *Suffex* to arrest all Ships in those Counties to be

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be at *Portsmouth* to be ready to go in that Service we shall command: And it appeareth in the same Roll, that these Ships were able but to bear six Horses; so in the *Cl. Roll* 14 *E. 3. m. 13.* To our Bailiffs of *Portsmouth*, and keeper of our Navy, to make ready one good Ship, and be ready to go in the Service of the same King, whither, and where He shall command it, *Cl. 23 E. 1. m. 5. Do.* The King declares, That He will have the Sea-Coasts in *Essex* guarded against Enemies; and there commandeth them to be obedient to such a one who had the Custody, *Pat. 23 E. 1. m. 2.* The King writeth unto all Arch-Bishops, Bishops, Sheriffs, Knights, and others, to be assisting unto who had the Custody of the Sea.

10 *E. 3. m. 37.* The King commandeth all Ships to be arrested, and Men and Mariners to be sent unto the Admiral of the *Fleet*, *ad proficiscend'*, &c. same Roll, *m. 5. Do.* A matter fit for the Counsel, and not for the People to know; same Roll 20. that should do, *prout vobis*, &c. The King to give no Account to His Subjects of those things, 24 *E. 1. m. 19.* The King having commanded O. S. to take up 100 Ships fit for His Service, commandeth the Sheriff of *Northumberland* and others to be assisting; same Roll. *m. 17.* Command to the same effect for all Ships that should be taken between *Lynne* and *Barwick*; it was likewise in the time of *E. 2, 9 E. 2. Pat. pars 2.* 26 Ships taken up at the Charge of the Inhabitants to defend the Sea against Malefactors, *Cl. 12 E. 3. m. 11. Do.*

a Writ directed to the Major and Sheriff of *Sandwich*, to make ready all Ships within their Ports, of 40 Tun *Ha.* &c. that they be ready within three days warning to go, as we shall more fully declare, the Service that was to be done; so it appeareth by other Writs to other Towns, in the same Roll, 17 *E. 2. m. 11. Do. Pat. 14 H. 6. pars 1. m. 14. Rex pro quibusdam arduis Causis*, &c. doth assign *John Hexam* to take up all Barges of 10 Men and upwards; so in all these times of King *John*, *H. 3. E. 1. E. 2. E. 3. and H. 6.* Writs have gone out generally, that the Service hath been concealed, and for instruction referred unto the Council, sometimes to the Guardian of the Fleet.

It standeth with reason, for resolutions of War are not to be communicated; His Majesty hath a separated Council of War from the Body of the Privy-Council.

Now, my Lords, for the Objection that hath been made against the first Writ 4. *Aug. 11. Car.* that is, the King hath not declared cause for the issuing of those Writs; the King hath not communicated it to *J. D.* and *J. M.* what the employments must be; he must satisfy the Counsel at Bar, which he ought not to communicate to His Privy-Council, but is reserved for the Council of War: This is a Writ to command obedience from His Subjects, and upon such Reasons as may satisfy any reasonable Man; and if fewer Reasons, it had been the better agreeable to all former Writs: For the next matter out of the Presidents, which is, that during the times of Parliament, that these Writs have issued, I have made that good upon my former Head.

The last thing I observed upon the Presidents is, that there was no cause, nor Particular in this Writ of 4. but was warranted by many Presidents; and in this the King doth *jubere per Legem.*

First,

First, for the direction, as in the Writ, sometimes upon one, or *Probis Hominibus* of such a County, sometimes the direction to Commissioners, sometimes one way, sometimes another way; and of this of the Presidents themselves, when your Lordships come to see them, I shall speak, they would have the King to descend so low as to give them a Reason why he did it; some Reasons are expressed in the Writ, as *Quia periculum eminens, quia pro defensione Regni, Tutitione Maris, securitate Subditorum, salva conductione Navium, &c.*

My Lords, All these are expressed in the Records, 9 E. 3. M. 12. Sco. 10 E. 3. M. 20. Malm. 12 E. 3. M. 1. 12. Malm. 13 E. 3. M. 13. I find in these Writs the same matter, power of Assessment, same Services by distress, and by Imprisonment; nay, seizure of Lands and Tenements, Goods and Chattels that are expressed in the former Writ; and that it was of the charge of the County, both Inland and Maritime: This appeareth Rot. Sco. 8 E. 3. M. 9. 4. *de Navigio providendo pro Custodia Maris*; many of these, Sco. 10 E. 3. That the Wages of the Men that went into the Ships, and guarded the Coasts, were at the Charge of the County; this appeareth 10 E. 3. M. 2. Do. 60. Men appointed and sent to *Portsmouth*, and they refused to go without Wages; but a Command came from the King, and commanded the Counties to pay them Wages, 10 E. 3. M. 21. Do. and His Predecessors not bound to bear any Charge, tho' *pro defensione*, Alm. 12 E. 3. pars 1. Those of *Lynne*, who refused to contribute towards the Charge, were assessed by Commissioners, *juxta quantitatem*, and were compelled to contribute; so in the close Roll, 12 E. 3. M. 8. the like *pro Custod' Marit'*. I might be infinite in these Particulars; but I will not tire your Lordships. Here they have made some Objections, though to answer the main Objection I am not yet come.

Obj. They say, this Power of assessing the People for Sums uncertain, these ought not to be, no more than *Escuage* uncertain, and must be assessed in Parliament; and this Assessment for Defence ought not to be by Commission, not for the King's Writ.

First, for the Authority, which is *Littleton*, he saith fo. 20. *Que communment ditq; Escuage serra assesse per Parliament.* I do not find by the Register where these Writs are, neither do I find them provided upon any Act of Parliament; but what if it be by Parliament, a Service that is to be done by the Tenant to his Lord, what if this be so, that it must be assessed in Parliament? your Lordships know, that the Tenant must do according to his original Duty of them he holds: And if this be so, that the Lords shall not assess them in Parliament, is that an Argument from a Tenant to a Lord to this Case? This is a Service commanded not by Tenure, but by a King from His Subjects; this is suitable to the reason of Law in other Cases for these ancient ties which the King doth require for the making of His eldest Son a Knight, or *pur file marrier*: Are these certain at the Common Law? Must there be an Act of Parliament to assess those Aids? the Books are otherwise; but the King at the Common Law might require an Aid uncertain, and might Sess it as He pleaseth. *Glanvil lib. 9. Cap. 8. Brit. fo. 57. Cap. 27. Braet. lib. 4. Cap. 16.* so as at the Common Law they

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were uncertain, 11 *Rep.* 68, *D.* It is said there, the Stat. of *Westm.* 1. *Cap.* 15. which putteth reasonable Aid in certain, doth not bind the King a *Fortiori*; we must not tie Him to a certainty, for the Defence of the Realm. No Man can tell what the Preparation must be, or the Charge thereof; if they can shew an Act of Parliament that limits the King for Defence of the Realm, they can say something.

But they say the Sheriff is no Officer, nor sworn to execute the Writs: This is as wide as the other; for, my Lords, the Sheriff is sworn to execute all Writs that shall be delivered to him for the King's Service; and surely this Writ, if it come unto him, he must at his peril execute it.

First, the direction of those Writs have been many times as well to the Sheriff, as to the Commissioners, *Sco.* 10 *E.* 3. *M.* 13. *Cl.* 15. *E.* 3. *M.* 17. The King commanded the Sheriffs of several Counties to furnish Men with Arms, Victuals, and necessary Provision both by Sea and Land, 23 *E.* 1. *M.* 5. *Do.* 24 *E.* 1. *Rot.* 79. *ex parte Regis.* The Lands of the Sheriffs and other Officers were extended because of their negligence in doing of their duty in these Writs, 25 *E.* 1. *ex parte Regis.* A Commission went out to enquire of the execution of the Officers in the duty of their Places.

Besides these Writs at the Common Law, he is seconded by the Authority of the Common Law, *Register* 122, or 127.

That Writs went generally unto the Sheriffs, for that in all Times and Ages it hath ever been in these Cases, where no certainty left to the discretion of the Sheriff and Commissioners.

My Lords, For the manner of levying by districtions, and by Imprisonment of those that do refuse, it hath been so in all the Presidents that have been vouched both by distress and imprisonment: for the Distress, if the King make a Corporation, and give them Power to make Ordinances for the Common-Wealth, and they make an Order, that they shall not pay the same, they shall be distrained. And is not this adjudged a good Ordinance, 5 *Rep.* 64. *Clarks Case*, *T.* 7 *H.* 7. *Rot.* 3. There is a Benevolence granted to *E.* 4. for his Voyage into *France*; one *T. R.* did deny payment, and he was distrained for his proportion.

They except to the penalty of the Writ, the penalty of former Writs have gone higher *inter Co'ia* in the *Exchequer*. There was a *Mandamus* to assess those employed in the provision for Shipping; and this *Mandamus* was, *Sicut nos & honorem & salvationem Regni diligitis.* In that Roll that is so often remembered, *Sco.* 10 *E.* 3. *M.* 1. *Do. quod, &c.* Their Lands, Goods and Chattels remain seised into our Hands, and *M.* 2. under pain of forfeiture of Life, 11 *E.* 3. *M.* 2. To cast those into Prison that did refuse, *Cl.* 12 *E.* 3. *M.* 18. *Do.* Writs directed unto *Henry Hussey* and others, to punish those who refused to contribute, and to imprison them, and seize their Lands and Goods into the King's Hands, *Cl.* 13 *E.* 3. *pars* 1. *M.* 36. *Do.* To seize into their Hands the Lands and Tenements of the Refusals, *Rot. Fran.* 21 *E.* 3. *pars* 1. *M.* 11. The King commandeth Ships under pain of Life, and all his Estate to forfeit, *Fra.* 10 *R.* 2. *M.* 23. *super* and to imprison those that contrary under forfei-

ture

ure of all they had; so as your Lordships see that Mr. Holborne was very far mistaken.

My Lords, in the next place they have laid hold of the distance of time, they say there was seven Months between the *Test* of the Writ, and time of *Randezvous*, that the King might have called a Parliament, and there might have been an Aid granted, and the Service performed in a Parliamentary way; but they may remember the 40 days between the Return and *Test* of the Writ, the time spent in presenting a Speaker, the solemnity used before they begin, their grand Committees, their reading of a Bill thrice, their debate about it, the passing of both Houses before it be granted. After all this be done, and the Parliament ended, a time for the levying of the Money must be had; and when it is levied, time for the Return of it; when it is returned, time for the expending of the Money. And the Preparations will go slowly on till the Monies be returned, 48 H. 3. M. 4. *Do*. There was a Command for guarding the Sea-Coasts, Cl. 23 E. 1. M. 5. *Do*.

That the Ports of *Yarmouth* commanded to find Ships for a certain time, Sco. 11, 12. 13 E. 3. they are put down in that Roll 8. That there was a Command *Navale subsidium* for three or four Months.

So as, my Lords, both for the time of preparation, and for the time of the continuance, it hath ever been reserved unto the wisdom of the King.

My Lords, for the *Spanish* Invasion, that hath been so late in our memory, I find by the Books that are kept in the Council-Chamber, that the Preparations were in *October Anno* 87, against the coming of the *Spanish* Fleet in 88, which did not set forth till *June*. I find no Parliament called that year: And by the Letters and Orders from the Council-Board, those Ships and Defence that were made, was *ad sumpt* of the Subject: So as, my Lords, by this that hath been said it doth appear unto your Lordships, that there was not any Clause in this Writ, either for the Direction, Motives, Mandates and Penalties; but are warranted by former Presidents, that I have collected and reduced unto these several Heads. I shall now remember unto your Lordships divers things; and in the first place observe, that *William* I. came not to abrogate any former Law, but was sworn to observe *Antiquas Leges Anglicanas*: That appeareth in *Lambert* 125. So every Man, by this Law, which was but a confirmation, must provide *pro viribus & facultatibus*.

I find in the Grant, that *William* the first made unto his Abby of *B.* of his own Foundation, a Charter to be free from *Danegeltis & omnibus auxilijs*: If they had not been freed, they had been subject. I find *Pat. 7. Jo. M. 3.* The King authorized *Walter Scot*, and others, that *omnes Naves, &c.* which could carry six Horses, which they should find, to arrest and command all to assist, as they love us and our Peace in our Realm, 14 *Jo. M. 6.* As your Lordships have heard all the Ships were arrested that could carry six Horses, and to be at *Portsmouth M. 2.* all the Ships of the Ports were to go in this Service, without expressing for what Particulars, Cl. 12. *Jo. 7. Do.* commandeth all the Ships to be brought to the *Thames* mouth: So here was not a laying down the continuance of it.

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So H. 3. time, Cl. 14 H. 3. m. 12. Do. All Ships taken that could carry 16 Horses, Cl. 15 H. 3. M. 17. Do. Command for the furnishing of Armed Men with Victuals, and other Provision for 40 days; and there was the like Command to the Sheriffs in several Counties, Cl. 26 H. 3. The King commandeth the Men of *Tarmouth* to have their Ships ready with Men and Arms: The same Roll to find 10 Ships to go to *Piccardy*, Pat. 48 H. 3. M. 3. Do. Writs to the several Port-Towns, that no Ships should go beyond Sea, but all to stay at home. Those who returned from guarding the Sea-Coasts were punished by Imprisonment, seizure of Goods and Chattels, M. 4. same Roll Do. Provision to be made till further use be had; so it was not confined unto time, but unto occasion, as need should require. And there be divers others in the time of H. 3. upon other occasions, which I have remembred in that time of E. 1. All the Port-Towns were appointed by the King and His Council, how many Ships every one should set forth, Vasc. 22 E. 1. M. 11. Do. N. 6. The King of *England* in that Writ doth stile Himself *Superior Dominus Regni Scotiae*, &c. and sendeth His Writs to the King of *Scotland*, to let him know the King of *France* had taken part of *Gascoigne*, an Inheritance of the Crown of *England*, that he should, in *Fide & Homagio*, be at *London* with Horse and Arms, &c. This Writ is very observable, the King of *England* is *Superior Dominus*, a part of *Gascoigne* then lost: The King of *Scotland* was required by this Writ, as well as requested, to give him Aid, for the Recovery of those Grounds taken from him in *Gascoigne*.

My Lords, This Power is not confined only to *England*, but it reacheth (as great Lord) into *Scotland*, also into *Ireland*, Vasc. 22 E. 1. N. 5. Dor. The King by His Writs commandeth divers Earls and others of *England* and *Ireland* to do the like, to send Men to *London* with Horse and Arms; the same Rot. Vasc. M. 13. Dor. All that claim to be of the liberty of the Ports, were commanded Pat. 23 E. 1. M. 1. 5. 7. All Ships of 40 Tun were to be furnished and provided for the King's Service, C. 23 E. 1. M. 5. every Man is compelled to contribute; same Roll M. 40. that did not inhabit in the Maritime Towns; yet if they had Land there, they must contribute; resident or not resident, within or without their liberty, all must contribute.

My Lords, in that Writ which is Cl. 23 E. 1. M. 5. Dor. I will observe these things: 1. A Command unto all Bishops, Abbots, Lords Spiritual and Temporal, *Quod sint intendentes respondentes ad Custodiam Maris*. 2. In contingent Causes. Thirdly, Writ faith, *Quod omnes ad Arma, &c. Secundum Statum, &c. Ad transferendum nobis*. And possession of Goods and Lands to be taken for the Custody of the Sea, as in times they were accustomed; so it is to be done in this manner, as in times past.

Fifth place, the Writ was directed to several Sheriffs *per Corpora, Bona & Terras* to distrain. Next 24 E. 1. M. 15. the King commanded the Arch-Bishops, Bishops, Barons, all the Commonalty, to defend the Maritime Parts, Cl. 24 E. 1. M. 19. *pro Custodia Marit*. There was another of *Simon* which I remembred before. 24 E. 1. Rot. 76. Another of the like *Rem' Regis*. Cl. 15 E. 1. M. 26. Do. The King moderateth the Expences of the Country, when

when the danger ceaseth, *Cl. 25 E. 1. m. 12.* The King commandeth the Sheriffs in several Counties, and others, to bring all the Ships to be ready for our Service whensoever we command, *m. 20. same Roll*; the like command *de Custod' Marit'*, *Pat. 31 E. 1. m. 20.* Power given to *Thomas de B.* to raise Forces in *Cumberland* to resist the *Scots*, and those that did refuse to seize their Goods: In the time of *E. 2. Cl. 2. E. 3. m. 21.* the King commanded divers Towns to set forth Ships against the *Scots*; and afterwards by special Writ some of these were discharged, *Rot. Pat. 9 E. 2. pars 2. m. 6. Pat. 16 E. 2. m. 11.* A Writ directed to Sir *Thomas W.* and others, to array all between sixteen and sixty, or to take their Goods and Lands if they did refuse, *Pars 1. m. 7. of the same Roll, 16 E. 2. Cl. 20 E. 2. m.*

The King doth there declare, That those who stay at home ought to contribute to set forth Ships, and for the Wages of the Men employed, *Cl. 20 E. 2. m. 60.* Writs directed to the Scholars of *Oxford*; they were not exempted, but commanded to keep *South-gate* safely, *Vasc. 18 E. 2. m. 18.* The King writeth to the Arch-Bishop, and others, commanding them to have Horses and Men in readiness as often as need shall require: For the time of *E. 3. Cl. 2 E. 3. m. 13. m. 22.* Do. the King writeth to *Southampton*, and to other Towns, for their Shipping, *3 E. 3. Pat. pars 2. m. 6.* The King commandeth the Sheriff of *Cornwal* to distrain Knights, and others; that abide in their Lands upon Maritime Parts, and imprison Those years of 10, 11, 12, & 13 *E. 3.* have been remembred. *21 E. 3.* The King, concerning the Defence of the Sea and Sea-Coasts, gave special Rules to be observed, both for the Number of the Ships, for the Quality of the Persons, and for the Proportion of their Wages, as appeareth *Pat. 19 E. 3. pars 1. m. 26. 21 E. 3. pars 1. m. 26. & 17.* where there was special order taken for the guarding of the Sea and Sea-Coasts at the Charge of the Inhabitants, *Franc. 21 E. 3. pars 1. m. 11.* Command to the Sheriff of *London* to arrest all Ships in *London* to be sent to *Callice* to resist the Enemies against us, then about to come: *Franc. 25 E. 3. m. 9. N. 26.* the King reciteth, That *France* made a Preparation to invade the Realm, and gave a Power to some to raise Forces, and commanded the Sheriffs to raise *Posse Comitatus* to assist the Commissioners. *26 E. 3. Pat. pars 1. m. 7.* the King, by His Writs to several Counties, commanded, That all Men between 16 and 100, to be in a readiness to resist the *Scots*.

Franc. 25 E. 1. N. 31. Command unto all Officers and Ministers to assist *Andrew de Gulpbo* in the raising of Forces for Shipping, and to bring them to *Portsmouth*; so as in that Roll likewise your Lordships see that the In-lands were commanded for Shipping, *Fra. 28 E. 3. m. 6.* The King appointed *R. C.* and *Ro. A.* to arrest all Ships of 20 Tun and upwards, between such a distance, and to bring to *Southampton*, *Scoc. 29 E. 3. m. 13.* That several Writs were directed to the Bishop of *Durham*, *Carlisle*, and others, for the arraying of Men, *Fran. 40 E. 3. m. 37.* The King sends forth divers Writs, commanding *Quod Domini Co.* with all their Forces, should assist to the safe-keeping of the Sea-Coasts, to resist the malice of the Enemies, *Fra. 50 E. 3. m. 45.* *Dor.* Command to make Proclamation, That all, having Lands upon the Sea-Coasts, should repair thither with

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with their Families; so as in all Ages and all Times Writs have issued both for Defence of the Sea and Land.

In the time of *R. 2. Parl. 6 R. 2. N. 42.* That was objected as a Record against the King, but maketh clearly for Him, *que dit, que le Roy Person assemblees en Parliament est desire de vivre des Revenues del' Corone, car Escheates, Marriages, & Forfeitures, sont pur le Defence nostre Roy Resp. le Roy volet de faire en ceo Case; come per le advise des Seigniors, &c.*

Your Lordships see they desire of the King to live of His Revenues; that the Profits of Wards and Marriages of the Realm might be kept for the Defence of the Realm. The King giveth His Answer, That He he will do and obey in this Case, by the Advice of the Lords of this Realm, as shall be most for His Honour and Profit; so no reason to make any inforcement out of this Record.

The Profits of Wards, &c. goes for Defence, because the King giveth no absolute denial unto it, saying, That the King will do as He shall be advised by His Lords.

Fra. 7 R. 2. m. 18. That the Lords beyond the Seas be Arrayed and Armed according to their Estate and Family, *Pat. 8 R. 2. pars 2. m. 15.* A Command, that all between 16 and 60 be in readines, *10 R. 2. m. 23.* Arrays throughout all *England*; and so in the time of *H. 4. Parlement. 5 H. 4. N. 24.* for the Arraying of all Men throughout *England*, and those that were impotent, and could not go to contribute unto it, *3 H. 5. m. 36. Do. Pat. 13 H. 6. m. 10.* General Commissions for the arrest of Ships, without declaring the Cause, *Pat. 14 H. 6.* assigned *Jo. de N.* to arrest all Ships in the Port of *Southampton*, to do Service as the King should command: There was no cause declared. *Pat. 28 H. 6. m. 2. 13.* Commissions to array, and those arrayed to keep in array with diligent Watches; and the like Writs awarded into other Counties, *1 H. 7. 1. pars.* The King writeth to Sir *Fitzbughe* to array Archers and Horsemen; so that it appeareth by those Presidents in all Ages, that those Defences have been made by Sea and Land, not confined to Port-Towns, and Maritime Places, but *per totam Angliam.*

Next place I shall give a particular Answer to such Objections as have been made (as have not fallen in my way) unto the Acts of Parliament, Reasons, Records, and some Book-Cases.

The End of Mr. Attorney-General's second day's Argument.

Mr.

Mr. Attorney General his third day's Argument.

May it please your Lordships,

THe Matters I did propose to insist upon this day, was the answering of the Objections, I shall use no Preamble, no Repetition to induce what I have to say: But in the answering of the Objections I shall first give answer to the several Acts of Parliament insisted upon, then unto the several Records and Reasons that have been urged; and in the last place I shall answer the Exceptions that have been taken unto the Writ 4 Augusti, Mittimus, and form of Proceedings.

The first Act that they have insisted upon, is that of *William I.* Call it what you will, an Act or a Charter: The words of it are verbatim in *Matthew Paris. Volumus & concedimus quod omnes liberi homines sint quieti ab omni Pallagio, &c.* Surely this Act of Parliament or Charter, it doth no way trench upon this Royal Power: For, as in the beginning of my Argument I opened unto your Lordships, that this Power was inherent in the Kings of *England* before the Conquest; here is only a Concession, that they shall be free *ab omni injusta exactione*; now this is no unjust exaction, for it is of common Right; and then the other part of this Law doth explain it, for it saith, That *sumus fratres Conjurati, &c.* so far as the Defence of the Realm: By the same Law they would urge to take away this Power, by the same Law it is reserved.

Next place they insisted upon, was the Charter 10 Jo. or on *Magna Charta*, as they call it, which indeed is mentioned in *Matthew Paris*, and may be under the Great Seal: The words of that are thus. *Nullum scutagium vel auxilium, nisi per Commune Concilium militem faciend', & maritand' fil', &c.* This Charter it is, as was acknowledged by themselves, granted at *Rumny-meade*, when the Banners were displayed, when there was War or Rebellion, between the Barons, Commonalty, and the King. It was not assented unto the King sitting in Parliament; for Parliaments are not called with Arms, and in the Field: It was in truth an enforced Act from a distressed King; shall this bind the Crown? I shall remember the Acts of Parliament made 15 E. 3. and there only were things that were in Parliament enacted derogatory to the Crown, as this is, that no Peer should be questioned but in Parliament, that no great Officer be removed but in Parliament, that no Clergy-man shall come before Temporal Judges; these were things that were much derogatory to the Prerogative of the King.

15 E. 3. That King the same year, when he was better advised, did make a Charter, which is in Print, for the recalling of this prejudicial Act of Parliament still in force.

It appeareth by the Parliament Rolls, and Printed Books, where the King declareth, it was drawn from Him with an unwilling mind, and was prejudicial to the Prerogative of His Crown; and therefore by that Charter it was repealed.

But, my Lords, this Charter 17 Jo. if this should be in force, why hath there been no confirmation of it in so many Parliaments since?

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since? The Statutes of *Magna Charta*, 9 H. 3. hath been confirmed 31 times, why no confirmation of the Charter 17 Jo. and why have we not heard of it since that time? Reason for it, because it trencheth too high on the Prerogative of the King and Crown. But take the words as they are; what be they? *Nullum scutagium nisi per Commune Concilium Regni nostri*. If it were an Act, doth this extend to take away any thing of common Right unto the Crown? And that hath been the Exposition of my Lords the Judges of Acts of Parliament, That Aids due of common Right are not taken away by general words of *Commune*, &c. And therefore these Aids due of common Right, as this is, are no way taken away; besides, for the Statute of *Magna Charta*, it is made, 9 H. 3. Cap. 29. *Nullus liber homo capiatur, aut imprisonetur, nisi per Legem*, &c.

The general words of this Act of Parliament doth no way impeach the Royal Power; for this Royal Power it is *Lex Terra*; besides in these Presidents, 14 H. 3. 15 H. 3. 26 H. 3. 48 H. 3. and all the succeeding Kings remembred in all them, that these Writs went out to provide Shipping at the Charge of the Inhabitants: So surely, if they had been taken away by *Magna Charta*, the Writs after *Magna Charta* would not have used it.

Obj. But then there hath been objected the Statute *de Tallagio non concedendo*; if it be 25 E. 1. as it is printed, or 34 E. 1. or, as the Petition of Right doth recite it, *Temps E. 1.* Be it when they will; I say, under favour, there is nothing in that Act doth take away this Power: The words are thus. *Nullum Tallagium vel auxilium, sine voluntate Episcoporum, Baronum, Burgensium*, &c. Mr. Solicitor, in his Argument upon probable Grounds, did make question, whether this was an Act of Parliament, yea or no?

1. In respect it was not inrolled among other Acts of that time.

2. Because the Penning of it may rather seem to be an Abstract.

3. Because when the other Acts of those times were sent over to E. 1. to be Sealed and Confirmed, no such Act was sent over.

My Lords, I will not lay hold on this; but will admit with them, that as it is recited in the Petition of Right to be an Act of Parliament, so I will admit, (yet to wave nothing that hath been said) but by way of Admittance I give this Answer.

Ans. 1. That it taketh away no Aids that are due by the Aids of the Realm; yet the words are general, *Nullum scutagium vel auxilium, nisi assensu Parliamenti*, &c. Here is not in this Act of Parliament so much as an exemption of an Aid to Knight the King's Son, or to marry the King's Daughter; Yet in this the Law is resolved, that these Aids are not taken away. And so it is declared, 25 E. 1. Ca. 11. which doth reduce these Aids unto certainty, so as your general words of *Nullum auxilium* will not do it. If this be an Aid due by the Law of the Land, then I say this is not properly an Aid; but a Contribution of King and People for the Defence of the Realm: It is *ad proficiscend' cum Navibus Nostris*; then I say, that this Power is *inter Jura Summæ Majestatis*, one of the highest Prerogatives of the King, and shall never be taken away by the King.

12 H.

12 H. 7. Stat. *quia emptores terrarum* doth not extend unto the King to take away his Tenure; If you will have such an high Prerogative taken away, you must shew it in the Acts of Parliament. Nay, my Lords, I say that in the time of E. 1. this Royal Power is expressly reserved by Act of Parliament unto the Crown, and therefore in after times never intended to be taken away.

13 Caroli.

(1.) I shall inforce it out of the Statute of 25 E. 1. cap. 5, 6. That doth recite that Aids and Taxes which have been given unto us before time towards our Wars and other Busineses of our own grant and good will, howsoever they were made might turn to a Bondage, &c. We have granted that we shall not draw these Taxes into a Custom, &c. and do grant that for no Business henceforth we shall take such manner of Aids, but by a common consent of the Realm, &c. saving the antient Aids due and accustomed. This Aid is not taken to be an Aid, for this was never given unto the Kings of England, but taken by Royal Power, the Statute of 25—speaketh of such Aids as have been given, and excepteth such Aids as have been due and accustomed, and by the Presidents shown it appeareth those have been due and accustomed. It hath been desired *fide* & *Ligeantia* and with a *Mandamus*, 2 E. 1. cap. 1. This Statute doth confirm the great Charter, and the Charter of the Forrests. But in the end of it in the Parliament Roll, that notwithstanding all these things before mentioned, both the King and His Council, and all they present at the making of this Ordinance, will intend the prerogative of His Crown be saved unto him.

A further Answer to the Statute *de Tallagio non concedendo*, the practice that hath been since the time of E. 1. in the time of E. 2. E. 3. R. 2. and the practice since doth shew plainly that it was never intended by the Statute to take away this Royal Power. But then a thing materially objected, if the Records had warranted what had been said, and that was *Rot. Parl.* 29 E. 1. and there it was said that though there be a saving 25 E. 1. 28 E. 1. yet here is no saving in this Act, so then Act of 29 E. 1. all was lost.

My Lords, In this, I say, there is *nul tiel Record*, and therefore I shall desire that this which they call an Act, 29 E. 1. I may attend your Lordships, which by the Record it doth appear that it is only a Record of the perambulation of the Forrest, and no repealing of any former Law, neither is any thing enacted by that Law derogatory to the Crown.

Next Statute objected, 1 E. 3. cap. 5. words are, that no Man shall be charged to arm himself otherwise than in the time of the King's Progenitors, and that none be compelled to go out of his Shire, but where necessity requireth, and sodain coming of strange Enemies within the Realm. So this Statute is relative to what hath been formerly done, and what hath been formerly done appeareth by the Records of King John, E. 1. that the Subjects were to set forth Ships for their defence, at their own charge, then those Writs went out in E. 3. time, as hath been shewed. And then this Statute alloweth in two cases, one where necessity requireth, the other upon the sodain coming of strange Enemies, and this Writ requireth no other, but where necessity is in the King's Judgment.

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Obj. Next Statute of 1 *E. 3. cap. 7.* was objected where Men of Arms were conveyed into *Scotland* and *Gascoign* without wages; the King saith it shall be done so no more; the Statute mentioneth *Scotland* and *Gascoign*, foreign Wars, and so foreign to this business; for though *Scotland* was subject to the dominion of *England*, yet it was adjudged a divided Kingdom. 8 *R. 2.* continual claim *Com. 376.* That a Fine shall be paid by a Stranger, because he was in *Scotland* at the time of the Fine levied. *Bract. 436.* an Abjuration into *Scotland* is good, 6 *R. 2.* protection 46. that *Scotland* is out of the Realm. Therefore this Statute that speaketh of *Gascoign* and *Scotland*, speaketh of foreign Wars, not of Defence.

Next 10 *E. 3. cap. 7.* Men of Arms, Hoblers and Archers shall be at the King's Wages. This Statute likewise speaketh of going out of *England*; but he that is upon defence of the King's Seas, he is not out of *England*, for that 6 *R. 2.* protection 40. The sending of Ships for the defence of the Coasts is no going out of *England*.

Obj. Next Statute 15 *E. 3. cap. 8.* no Man shall be constrained to find Men of Arms, Hoblers or Archers, otherwise than those who hold of such services without Common Consent. My Lords, This Statute of 25. doth not take away any former Laws, in that Statute of 4 *H. 4. cap. 13.* these three former Statutes of 1 *E. 3.* 18 *E. 3.* 25 *E. 3.* are recited in the Statute of 4 *H. 4.* and enacted they shall be firmly holden and kept in all points. So if these Statutes must be kept firmly in all points, then the Statute of 25 *E. 3.* doth not repeal any of these: Now that of 1 *E. 3. cap. 5.* reserveth a power unto the Crown, where necessity requireth, and when sodain Enemies come. 26 *E. 3.* those Ships were sent forth, and commanded for the defence of the Realm at the charge of the Subjects, *Rot. Fran. 26 E. 3. m. 4. 5. Fran. 28. E. 3. m. 6.* so as clearly there is no part of this Power impeached by this Statute of 25.

Then they have objected Parliament Roll, 2 *R. 2. No. 3.* Earls and Barons and other Sages of the Realm declared the great mischief by Sea and Land, and therefore declared they could not remedy this mischief but by charging of the Commons, which cannot be done without Parliament.

This is no Act of Parliament, it is but a Parly or Discourse and Communication between the Lords and Commons. It was in 2 *R. 2.* in the nonage of a young Prince, who did not assent, for there was no Royal assent unto it, so no proof in this Case.

Next Record 9 *R. 2. parl. no. 10.* there was a tenth and a half and fifteenth and half granted to the King, upon condition contained in the Schedule, which is that the King should assent that the Officer should be named in Parliament, and Servants be appointed for dispendence of the Money.

If the King will accept the Subsidies and Aids upon condition, doth this take away the Royal Power? there is no more done in this than was in the Parliament 21 *Jo.* for there the Officers and Treasurers were appointed by the Houses of Parliament. But then further it doth appear, that this was granted *pro viagio Johannis Regis de Casteel, &c.* so that it was not granted for the Custody of the Sea, but for this Voyage. Next place they insisted upon the

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parl. 9 H. 4. no. 2. tenth and a half, and fifteenth and a half granted, with protestation that this should not be returned for example, this is nothing, no more than the other. A Parliament grants a Subsidie upon Condition it should be thus and thus imployed. And the protestation can no way prejudice the Crown in this. *7 E. 4. parl. no. 7.* Objected there the King's Speech, that is there entred upon the Roll, that he will not charge His Subjects but in great and urgent occasions.

13 Caroli.

My Lords, This is nothing but a gracious Speech of the King unto His Subjects, that he would charge them but in such Cases as should concern the defence of the Realm.

The Statute next objected, was *1 R. 2. cap. 20.* that the Subjects from henceforth shall in no way be charged by any such Exaction or Imposition. My Lords, This is no Benevolence, but a Legal due.

Next they object the Statutes of Tonnage and Poundage granted to the Crown for the defence of the Realm.

In Answer to that, there is no Act of Tonnage and Poundage that is now in force; neither are any duties taken to the Crown upon any Act of Parliament.

Those Statutes of Tonnage and Poundage which have been granted, they make for the Crown; and therefore if your Lordships look the Statute *1 E. 1 Jac.* it was given towards the King's Charges for the defence of the Realm and safeguard of the Sea: It was given towards the charge; It is not intended of any extraordinary defence, so as, my Lords, these Acts when they were in force did give this but towards the charges. It is so now, for this which is done, and those Contributions levied are but towards his charges, and that will appear upon account, that His Majesty for these three or four years hath expended more upon the Sea than any His Progenitors, besides an acknowledgement in these Acts, that this defence could not be done without the intolerable expence of His Majesty, these aids are of necessity, and not to be lacking at any time.

My Lords, In the next place they insisted upon the Petition of Right *3 Caroli*, it was never intended that any power of the King by His Prerogative should be either taken away or lessened by it. I dare be bold to affirm, for I was of that Parliament, and was present at the debates, that there was never word spoken in that debate of taking away any power of the King for the defence of the Nation by Shipping. Besides, it is declared, assented unto, and denied by none, that there was no intention by the Petition of Right to take away the Prerogative of the King. The King did grant no new thing, but did confirm the ancient and old liberties of the Subject.

My Lords, These were the Acts of Parliament that have been objected and insisted upon on the other side.

Next place for an Answer to scandalous Objections. It hath been said by Mr. *Holborn*, that these Statutes of *25 E. 1. 28 E. 1.* That all the time of making those Laws they were positive, no such *salvo* in them of the King's Prerogative.

The Acts before *H. 4.* was penned by the King's Council, and those clauses of a *salvo* crept in by the King's Council, these were

An. 1637. bold and presumptuous Assertions. The Acts of Parliament made in that time of *E. 1.* that there should be any clauses added by the King's Council, that should not be added to the Record.

I have here the Parliament Record, that these exceptions are recorded as fully as any part of the rest of the Record; and those Laws confirmed since, therefore to make any such assertion against Records ought not to be done.

He may object the same against *Magna Charta*, which is for the liberty of the Subject.

Next place they have objected out of the Parliament Book, 33 *E. 1.* That upon a Petition made to the King to have restitution of money taken, that the King did ordain the Treasurer should give satisfaction. I shall desire it may be read, and you shall see these Moneys for which direction was given for satisfaction taken for the King's use.

Parl. 33 E. 1. fol. 105. dorf. per Scrut. pro guerra, &c. Respons. per Regem, Rex ordinavit per Concilium quod satisfactionem faceret, tam citius poterit, so this Record was for moneys taken meerly for the King's use, therefore reason satisfaction should be given.

Next *Parl. 8 E. 2. m. 8.* Fryers of *St. John of Jerusalem* did Petition to have satisfaction of 2354*l.* taken by the King out of the Treasury. Now because this Record was vouched two days together, I desire it may be read, and upon the reading it will appear to be upon another purpose, *Sur le Roy, &c.* but there was cause and reason why the King should make satisfaction.

Next Record, *Pat. 26 E. 1. m. 21.* and that was highly magnified by them; that there were several Commissions went out to inquire of *Gravaminibus* of Wools, and other particulars *de Custod. Maris*, and in this it was affirmed as all the King's Council took their Notes that these Clauses were omitted out of the Writs that concern the forfeiture of Lands, Goods, Chattels, or Seisures; This Commission maketh nothing to this purpose, for like Commissions daily come; there are Taxes laid upon men heavier than they ought to be.

Commissions granted to inquire of Grievances in this kind, whereunto an Answer was, if any thing unjustly taken, shall be restored. But not a word to impeach this Royal Power. And, my Lords, for the penalties in the Writs, *Pat. 31 E. 1. m. 20.* Power to seize the Lands and Goods of the Refusers, 20 *E. 2. m. 10.* under forfeiture of all his Goods, 10 *E. 3. m. 5. dorf. Cl. 12 E. 3. m. 18. dorf.* That the Penalties and Commands were as high in this Commission as before.

Obj. Next Objection, that the Kings of *England* have always consulted with the Parliament concerning the defence of the Realm, and that the Aides and Subsidies for defence have been granted by Parliament.

Answ. This is no Argument to impeach this Royal Power; for if in time of War the King will consent unto it, shall this take away his Royal Power? in the time of *E. 3.* and *R. 2.* did that take away the Royal Power, that he may not ordain Standards of the mony himself? he may by His Royal Power erect Courts of Justice,

Justice, shall that take away this from his Power, because the Court of Wards was erected by Act of Parliament? 13 Caroli.

Next Record Cited was *Rot. Alm. 12 E. 3. pars 1. m. 22.* That *E. 3.* was so penitent for what he had done, that he sent to the Arch-Bishop of *Canterbury* to pray for him, and that the People would forgive him for laying those Taxes upon them, which his Wars compelled him unto, and he would never do the like.

Ans. You shall see it was only to pray for him for his Voyage into foreign parts; [and so caused the Record to be read, beginning thus, *De excusando Regem versus Populum*, ending *de Gravaminibus*, dated at *Barwick* upon *Twede*:] your Lordships see by this Record nothing but a desire of a Prayer. (1.) To pray for the King for his Voyage beyond Sea, the other concerning the Charges or Impositions. Surely this Contribution commanded in the Shipping business, was none of those Charges, Talliages or Impositions; This his desire to the Arch-Bishop was not only in the 12th year of his reign, but the like 25 *E. 3.* 26 *E. 3.* and the like 50 *E. 3.* so as surely those Prayers of the Arch-Bishop was for other Causes, and not for this which was for the defence of the Realm.

See the Record
in the Tower.

Obj. Next Objection *Fra. 7 R. 2. m. 13.* That the King assigned Tunnage and Poundage to *Henry* Earl of *Northumberland* for guard of the Seas.

Ans. My Lords, It doth appear by the very Record it self, that this was only for ordinary defence, and not for an extraordinary defence.

Obj. Then they insisted upon the Parliament Roll of 13 *H. 4. n. 43.* the Office of admeasuring Linnen Cloth, a half-penny upon the Buyer and Seller, and other Fees upon long Cloth, the Parliament of 13 *E. 4.* declares to be a void Office, and that accordingly Judgment was given 13 *H. 4.* out of this he would conclude, that therefore there should be no new Office; that an Office granted with a Fee is void in Law.

Ans. For Answer unto this, (1.) The reason why that was a void grant was this; it appeareth 4 *E. 1.* That the Office of all Woolls and Linnen Cloath was one intire Office. If the King will grant that to another man which was to trench on the former Office, a void Patent. Therefore a strange conclusion, that because this Office was void, therefore no new Office to be granted. 22 *H. 4. fol. 9.* the Office of Surveying the Packing of all Cloath, good Office, 27 *H. 4. fol. 28.* the King granted to one to be Surveyor of his a good Office, *Fitz* saith, because it had no Fee, therefore it was a void Office; and now at Bar it is said because it hath a Fee, It was a bad Office. If this reason may hold, all ancient Offices may fall. 39 *H. 6.* Office to be Marshal of the King's Bench, 12 *H. 7, 15.* to be Warden of the Fleet.

Nay, it taketh down all Offices that have been erected for the publick good, and upon such cause as Offices *sub pena* in Chancery,

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cery, Star-Chamber, &c. All those within time of memory must be shaken by this.

Obj. Next place objected, that these Contributions that they are in substance Impositions, and that the King shall not impose upon the Subject by his Charter or his Writ, but it must be done by common consent in Parliament; your Lordships have observed in all my Discourse, that I have not insisted any way upon any Power of Imposition, neither is it the question in the business, for no man's property is Invaded, no seizure of any man's Goods, unless they will incur for contempt, and by a wilfull contempt the Subject may lose his property.

Therefore *Dyer fol. 16. § 13 Eliz. fol. 296.* If the King will command His Subject to come into the Realm, and he will not, he shall forfeit all his Goods for his contempt; or if he be attached to appear in the Courts of Justice, and not appear, he shall forfeit his Goods, 34 *H. 6.* 49. 9 *H. 7.* 6. If a man will wilfully contemn the King's Command, by his Writ he may be distreyned; this incurreth not by an Invasion of His Property, but in respect of his contempt. *Parl. 5 E. 3. m. 24.* Lord *Latymer* he was sentenced for perswading the King to lay Impositions. My Lords, I have looked upon the Record, and there the cause of the Sentence is declared, that he himself laid the Impositions, and did take upon him Royal Power, and therefore he was justly sentenced; and for the Sentence of Doctor *Mannering*, nothing to this purpose. This Writ denieth not the property to be in the Subject, but saith the Subject hath the property, and therefore Commandeth the Sheriffs to distrain him if he will not pay.

And for the Commission 2 *Car.* for the borrowing of mony for the Palatinate, this was for the recovery of the Palatinate, not for the defence of the Realm, and besides called in by special Order.

Next place they objected and shewed divers Records, that the King hath paid the wages of divers Mariners and Soldiers, and I do agree it; Is that an Argument that he may not Command the Mariners to be sent at the charge of the County to furnish the King's Ships? this is against the Records that I have remembred. So likewise they have cited 12 *E. 3. Ro. 77. ex parte Rem. Regis.* the King Commanded the Constable of His Castle of *B.* to build Ships, and the King to pay for them; so he doth at this day, he hath built the Sovereign of the Sea, and paid for it.

They have objected Doctor *Cowel's* Book, which was called in- I wish they had read the Proclamation; three Causes expressed, (1.) Because he had writ things derogatory to the Crown, (2.) For (3.) For speaking irreverently of the Common-Law, just to light upon those men who do not spare to wade into all the deep mysteries of Princes, who are Gods upon Earth.

For their Objection, that the King hath a Revenue belonging unto his Crown for the defraying of all ordinary and extraordinary Charges, and for the guard of the Sea.

As Tenures by Knights Service, Escuage, Wards, Marriage, ancient Demesne, &c. Poundage and Tunnage, service of the Ports, and Profits of the Sea.

My Lords, It is not for us that are Lawyers to look into the secrets of the King's Revenue, he hath high Officers, as Treasur-
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rer and under Treasurer that looketh into the secrets———of his Estate, and they know well whether his ordinary or extraordinary Revenue do answer more than his Annual expence. The story of *Acteon* might deter men from looking into the secrets of Princes.

For his Tenures, that Knight-service tenure was originally instituted for the Service of *Scotland* and *Wales*, 19 R. 2. *Fitz. Guar.* 165. and old Tenures *fol.* 10. duties Called Tunnage and Poundage, when they were given it was meerly for the great charges of this great defence.

And besides those Acts of Tunnage and Poundage only concerned the ordinary defence, the sending forth of the 75 Ships out of the five Ports. It was but for 15 days at their own Charges, and for your profit of the Sea of Sturgeon and Whales, a proper defence for a King. And for the service of the Ports, you may remember by the Records shewn, they were Commanded *ultra debita*; but then they have granted one Case, and I think but one, that the King may ordain a Toll in a Fair or Market, or grant Pontage or the like, because there is an *ad quod dampnum*, and therefore shall be an inquiry *si Patria gravatur*. The King may grant a Fair without an *ad quod dampnum*, if in his Judgment, &c.

Rot. Sco. 1 E. 3. m. 8. Writ directed to the Treasurer, to pay for the Shipping at *Tarmouth*. My Lords, It doth appear particularly in the Records, that *I. S.* was Admiral, and going into *Scotland*, so the defence was for a foreign War.

It hath been mightily insisted upon, that here needeth no Command to furnish Ships by the King's Writs; every man by the instinct of nature will do it, where a necessity or Royal Power or Command needs; surely this Argument is made by the People, or to please the People; what will the Consequence of it be, but the introducing of a Democratical Government when every man shall be his own defender. The God of Hosts chose Captains and Leaders to go before his People, and command them; but to give the People this liberty, that every man shall do as he please, and make a defence by instinct of nature, is a strange Position——But it hath been said in these Cases, it is better to sustain a mischief than an Inconvenience; by this Inconvenience every man's property is taken away from him as often as the King pleaseth, and in what proportion he pleaseth: This though a Maxime in Law, yet it goeth unto particulars; but the loss of a Kingdom is both Liberty and Estate; this is not to be reckoned amongst the mischiefs, for this mischief destroyeth both Head and Members, therefore I do marvel to hear the Rule of *Mr. Holborn* suffer a Mischief, rather than an Inconvenience.

Next Objection, *Parl.* 2 H. 4. no. 22. *pur faire Barges*, This was the Petition of the Commons, that the Commissions granted to Cities, Burroughs and Towns for building of Barges should be repealed; the King's Answer for the present they should be repealed, but for the future for case of necessity he would advise with the Lords: It doth not appear that these were granted for the building of any Ships for the defence of the Realm.

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These are the Objections that have been made out of the Acts of Parliament, out of the Records and Reasons they have insisted upon; now I come to the Exception and Objection against the Writs and Proceedings in this matter.

i. They say there was no sufficient danger represented by the Writ 4 Aug. They say the supply by a *Mittimus* doth come too late, and that the words of the *Mittimus* are not a good affirmative, *quia salus*, &c. and it doth not appear there was any danger 4 Aug. ii. For this I have given it an Answer, that it was not necessary to represent the danger in the Writ. The King he hath secret intelligence, he hath his Espies abroad, his Ambassadors beyond Sea, he knoweth the danger we know not, nay, that which is not fit to be discovered; and those dangers by preparation perhaps diverted another way. It's not fit by a publick Writ to reveal the dangers.

But, my Lords, For the satisfaction of His People he hath expressed sufficient cause enough in the Writ. *Quia salus Regni periclitabatur*, &c. they say there was no danger represented at that time when the Writ went out; that is mistaken, for the Writ of *Mittimus* doth recite 4 Aug. and saith *quod quidem predones Pirati*, &c. Which sheweth the danger was the cause of the issuing of those Writs; then they except this same word *salus*; it is a Physical word signifieth health, and you must have no Metaphors in Writs: surely the Gramarians can tell that *salus* is taken *pro incolumitate*, as for health, for safety. Metaphors are usual in Writs; I dare be bold to speak there are more Metaphors in the Register, than in any Book, Register 61. *Turba*, &c.

Then they have left no stone unrolled in this Case. Now, they say the King's Testimony by His Writ is not sufficient, for that under favour it is *Teste meipso*, without exception we are bound to give credit unto it, 1 Eliz. fol. 105. *Ne exeat Regnum*, the King affirms I. S. will go beyond Sea. Saith the Book, this averment of the King in His Writ it is not Traversable, you shall not aver against it. The Case remembred by Mr. Solicitor, which was mistaken by Mr. Holborn in the Answer Hill. 20 E. 1. *Coram Rege Rot.* 14. he said these words vouched in the Record, was but the saying of the King's Council, and not the opinion of the Court; clear otherwise, for it was the saying of the Judges, and then agreed *quod Dominus Rex est superlativum Recordum & precellens*; will your Lordships give credit to the Certificate of the Marshal of the King's Host.

To the Certificate of the Captain of a Company if the men be in the King's service, 11 H. 7. fol. 5. to the Certificate of a Bishop in case of Bastardy, to the Certificate of a Mayor and Aldermen by the Recorder, 5 E. 4. 30. 21 E. 14, 16. and will you not admit of the Certificate of the King by his *Mittimus*?

Next exception was taken to the *Scir' Fac'*, that this *Scir' Fac'* ought not to go forth upon this as a Duty to the King.

i. The Writ 4. doth direct a form of levying, which is by distress or imprisonment of those that are Rebels.

2. It is no Duty to the King, and therefore ought not to be levied by *Scir' Fac'*.

My

Prout in la
Brief.

My Lords for this, this Duty is a Duty to the Common-Wealth. It is *pro defensione Regni Thesaurus publicus respicit Regem*; whosoever shall detain any publick Duty, he may be questioned by the King as the Head of the Body; for that it appears 27. *Aff. pl. 17.* It was declared, that *J. S.* and *J. D.* had levied 100 Marks on the County for the Array of certain Archers, which Money did not come for the Profit of the King. Out of this I observe two things. 1. This Money that was for Archers, the Money was levied on the Body of the County. 2. Recovered by an Indictment at the Kings Suit, 27 *Aff. pl. 17.* 11 *H. 4 fo. 2.* the Fee of the Knight of the Shire that serves by Parliament, they are reckoned amongst publick Duties; therefore the Goods of a stranger may be taken within the Town to pay those Fees: If the Money be not paid the distress may be sold, for it is for a publick Duty, 11 *H. 4. 2.* so is the Book, *Reg. 19. 2.* The King commandeth the Sheriff to levy those Fees, as well within his Liberty, *quam extra, Hill. 20. E. 3. Rot. 57. coram Rege Juratores Hundredi de S.* They make a Presentment, that *J. S.* and *J. D.* Chief Constables of paid Wages to Archers which went not beyond Sea.

So as by this Record, it appeareth, these publick Duties are recoverable at the Suit of the King, *Quia ad opus Domini Regis, Pat. 14 E. 1. M. 1. 14.* The King commandeth an Account to be taken of the Murage, and how the Sums have been employed, *P. 15 E. 1. coram Rege 70. Do. Rippon* was Besieged, they gave Hostages; Promise made by the Town, that those Hostages should be redeemed, they were not, complaint made unto the King, and came to the *Kings-Bench*; and these Monies being 700 *l.* that was promised by the Town, for bringing back of those Hostages, was ordered to be paid, because it was for the publick Service: So for other things that are *pro Communi utilitate int' Co'ia, Hill. 5 E. 4. Rot. 4. Aurum Reginae*, due unto the Queen, may be levied by Process out of the *Exchequer* in the Kings Name; nothing more usual. This *Scir' Fac'* it is grounded upon the whole matter, the Writ 4 *Aug. Carr. and Mittimus*, and commanded that the Defendants should shew cause why they should not pay the Monies assessed upon them for the publick Service.

My Lords, I have done with the Objections, I shall come to the Judicial Records, 24 *E. 1. ad Custodiam Maris. Barkshire*, an Inland County, refused to contribute; the Names of those that made default were certified into the *Exchequer*.

It appeareth by the Records cited, that Process went out of the *Exchequer* in the strictest manner, a *Capias* of their Lands, Tenements, Goods and Chattels; and that their Bodies with Horse and Armour be sent to *Portsmouth*; so, besides the doing of their Services, the seizure of their Lands and Goods. The same year, *ex parte Rem' Thesaurar'*, on the other side *Jo. de S.* gave information unto the Chancellor of the *Exchequer*, and Barons, in the absence of the Lord Treasurer: A Bishop of the preparation of Men in *Flanders*, (this being remembred before to another purpose:) It appeareth, after Consultation had, they did resolve to send forth two Writs, one was to the Town, the other to *T. H. Custos Maris*, to call all for defence of the Maritime Parts; *ex parte Rem' Regis, 24 E. 1. Rot. 80. Henry Hussey* was seized of the

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Mannor of *W.* in *Barkshire*, he was assessed to find a Horse *pro Custod' Marit'*; he complained in the *Exchequer*, he had not the whole Mannor, and yet was assessed to find a whole Horse; so he did not come and say, I ought not to be taxed; he submitted to the Power, and desired a mannerly Contribution, 25 *E. 1. Rot. 72.* The Abbot of *Robertsbridge* Case remembred on both sides divers times; under favour, the joyning of the Issue in the Record, is a very full Proof in the Case; he brought a Replevin against *Jo. S.* for taking of his Goods, an In-land Town in *Kent*, he pleadeth the Confirmation between our King and the King of *France*, and *Leyborne* assigned keeper of the Sea. That the Plaintiff was assessed unto 7 *l. 7 d.* Anno 22. 13 *l. 23. 15. 24.* and the Defendant being Collector, did distrain. The Plaintiff did not say in Bar of this, he ought not to be taxed; but he was sessed *ad inveniend'*, &c. for such Lands.

The Defendant, saith the Plaintiff, did hold other Lands in the County, and for that Land he was sessed; now, this doth admit the Power of taxing, *Hill. 16 E. 3. Rot. 23. coram Rege.* The Jury of *Norfolke* did present, that *J. Russel* and others, 8 *E. 3.* were Hoblers elected in the Hundred of *T.* and staid at home; they plead, not guilty; the Jury find that *Jo. Russel* did perform the Service, but *Jo. S.* did not perform, therefore committed to Prison, and paid a Fine unto the King. By this Record it appeareth, the Money paid to the Archers and Hoblers was at the Counties Charge.

Methinks the disclaimer that is by the Commons, 13 *E. 3. Parl. N. 9. 11.* is in nature of a Judgment in this Case; for there they did disclaim they had no Conuance; and there likewise, upon their own confession, that the Maritime Parts ought to defend at their own Charges, as the In-land Parts the In-land Counties: This Confession, 13 *E. 3.* is a strong Argument, *Parl. 21 E. 3. Rot. 20.* when the Commons did petition *de garde le Mare*, answer *soit garde fait*; and that was at the Charge of the Country, as your Lordships know.

20 *E. 3.* Divers Ordinances made, which Ordinances made had the force of a Law: The King and His Council did ordain, *Quod omnes illi*, &c. which have such a quantity of Land, should be sessed to find one Archer. *Decem librar' terræ Hobelar', viginti librar' 2 Hobelar', 25 librar' unum hominem ad Arma.* This appeareth *Fra. 20 E. 3. pars 1. M. 17.* in the County of *Bedford* and *Buck.* In the same year another Ordinance, that those that did reside with their Families, *cum toto posse*, within six Miles of the Maritime Parts, were excused for finding of Men without.

My Lords, Upon the occasion of this Service there was divers refusals made. Certificate by *Mittimus* of their Names into the *Exchequer*, as in this Case. *J. T.* and *W. G.* were certified defaulters among other; upon this the Court of *Exchequer* they award Process against these Men and others, which was a *Capias in manus*: Seizure of their Lands and Goods; they came in and pleaded, that they did reside *infra sex leures*, with their Families, and all their Power: Issue joyned upon this, Jury Impaneled; and it appears, those that were found within six Miles, Judgment *quod sine die*, but for others imprisoned and fined, for so much Land as they had with-

out

out the six Miles, for that they were charged. If I should number unto your Lordships all the Judgments in this kind, I might speak here till to morrow morning.

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P. 22 E. 3. int' Co'ia in the Exchequer. P. 22 E. 3. M. H. 22 E. 3. P. 25 E. 3. M. 25 E. 3. P. 27 E. 3. P. 28 E. 3. And there is a great number of other years of 29, 30 *H. 4.* And, my Lords, according to those Judgments, *Trin. 21 E. 3. Rot. 3.* The Writs went forth for discharging of such as had resided upon their Lands within six Miles, 21 *E. 1. Pipe Roll*, discharged, because they were in the Kings Service: So as, my Lords, out of these Records thus much may be collected. 1. They affirm the Kings Power in the Assessing and Levying. 2. Then they are grounded upon those Ordinances made by the King and His Council. 3. Process went out of the *Exchequer*, and not in the Kings Name, *M. 22 E. 3. Parl. coram Baronn.* Issue joyned, whether *J. S.* had Land to the value of 40 *l.* to find Hoblers: If he had, then he was to do it.

My Lords, I have now done with the Judicial Presidents. I have cited some few among many others. It is now time, after so long Premisses, to draw unto some conclusion.

Wherein your Lordships have heard, 1. That the King of *England*, that He is an absolute Monarch, and that by the Common Law of *England* all those *Jura Summæ Majestatis* are inherent in His Person.

This *Supremum Dominum*, for all the Land that any Subject holdeth, it is derived from the Crown: And as *Plowden* putteth it, 12, 13. That there is a Tacite Condition in Law annexed upon his Grant, that his Officers may do Justice, to execute his Process surely upon his Grant.

This Tacite Condition may be subject to a common Defence; Supream Jurisdiction both by Sea and Land was never yet impeached. And from him lieth no Appeal. And originally, by the Institution of the Laws of this Realm, what was once in his Hand was never granted from him; he hath absolute Power of concluding War and Peace: all these are in him as he is an absolute Monarch, and holdeth in his Kingdom under none, but God himself. It hath appeared, that the principal part of this Kingly Office consists of the Defence of the Realm: That as his Jurisdiction is by Sea and Land; so is his Defence: And this hath been made appear unto your Lordships, both by Presidents before the time of *William 1.* and since, *pro Communi utilitate*; and in Cases of necessity the Kings of *England* may Ordain by their Proclamation, Writs, Patents, by the advice of Council and Judges in Legal Matters, that the King is the sole Judge of this danger, both for the prevention of it, and for the avoiding of it. Therefore for us to distrust, that he will command too great a Power or Aid, it is a presumption against a presumption of Law. It has appeared likewise, that all the Incidents of Defence is inherent in His Majesty; we cannot build a Fort or Castle on our own ground without Licence. Your Lordships have heard the Presidents particular and general: The Presidents which have universal Reasons, *Quod omnes ex debito astricti sunt.* Writs awarded by the Kings Royal Power in time of Parliament, when Parliaments were, and in those years when great

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Aids and Subsidies were granted to the King, many times no cause declared, nor the occasion discovered. There is no Act of Parliament made to take away this Power; and the Judicial Presidents which your Lordships have heard, have affirmed this Royal Power.

My Lords, If there were no Law to compel unto this Duty, yet Nature, and the Inviolable Law of Preservation, ought to move us: These Vapors which are exhaled from us will again descend upon us in our safety, and in the Honour of our Nation. And therefore let us obey the Kings Command by His Writ, and not dispute. He is the first mover amongst these Orbs of ours, and He is the Circle of this Circumference, and He is the Center of us all, wherein we all as the Loynes, should meet; He is the Soul of this Body, whose proper Act is to command.

I shall need to use no perswasion to do Justice in this Cause: And therefore I shall humbly desire Judgment for the King.

The end of Mr. Attorney-General's third days Argument.

Passages in Mr. Holborne's first days Argument for Mr. Hampden, in his Reply to Sir Edward Littleton, His Majesties Solicitor-General, in the Case of Ship-Money, which gave occasion to the Court to reflect upon in his Argument.

May it please your Lordships,

IN obedience to your command, I am ready to argue, though not as I desire, nor as the Cause deserveth, it being impossible for one in so short a time to be fitted to make a Reply (the life of the Cause) to an Argument so long, learned, and so full of Records, wherein neither Labour nor Learning was wanting. I shall now rather shew your Lordships what I might do, than what I shall for the present, well hoping my Clyent will excuse, and your Lordships greater care supply my defects.

After he had opened the several Writs, he said, My Lords, I shall proceed to the stating of the Questions, which are Three.

The First, which is a chief one, is this, Whether upon the whole Record the Case so appears for the King, that 4 Augusti 11 Caroli being the day of the Date of the Writ, the King could charge the County of Bucks to find a Ship at their Costs and Charges?

2. By way of admittance, if he could yet, Whether the King can give Power to the Sheriff to Assess the County, as in this Case?

3. By

3. By a further Admittance, admit the King had Power to Charge, and Power to Assess, Whether can he levy the Money unpaid by this course of *Certiorari* and *Mittimus*, as he might do if it were his own proper Debt?

13 *Caroli.*

The first Question is, Whether or no upon the whole Record the Case appears so for the King, that 4 *Augusti* 11 *Car.* being the Date of the Writ, the King could by His Writ charge the County of *Buckingham* for finding a Ship of War? As it hath been on His Majesties part stated, by the Kings Solicitor, who stated his Question in these Words.

BEfore I enter into my Argument, because the true stating of a Question in this and all other things doth exceedingly conduce to the clearing of a thing in question, I shall in the first place observe the Writ Dated 4 *Augusti* 11 *Caroli*, (the ground of this Assess) which was directed into *Buckinghamshire*, and into all the Counties of *England*; and this was for raising of Money towards the Provision for Ships for the Defence of the Kingdom, with a notable Circumstance, *Quia salus Regni periclitabatur*; which being expressed in the Record, is confessed by the Defendants demurrer; and not only so, but testified by the King Himself under the Great Seal, (in the *Mittimus*) and in all matters, especially concerning the publick safety. The King is *Recordum Superlativum*, & *super precellens*, as is filed in the great Case between the Earls of *Gloucester* and *Hereford*, 20 *E. 1.* so that the Question is only thus; Whether the King, finding in His Judgment the safety and preservation of the Kingdom and People, necessarily and unavoidably to require the Aid commanded by this Writ, may not command such Aid by Writ, for saving and preserving the Kingdom and People?

The Question as it was stated by the Solicitor-General

Wherein, I confess, there is not a word but hath its weight. As to this Question thus made, I shall make three Exceptions, which are things taken in to be granted, which I shall not agree to, if I can avoid them.

1. That, at the least, in the Kings Judgment, the safety and preservation of the Kingdom was endangered 4 *Augusti*; that is, that the Kingdom was in danger to be lost.

2. If it be so, that the Kingdom was in such danger, and that the danger was so instant and unavoidable, that it necessarily required this Aid by this Writ, (that is) it required a present Charge of Shipping presently, 4 *Augusti* 11 *Caroli*, to be forthwith commanded, and that the expectation could not stay for a Parliamentary Consideration and Supply: These be the things wherein we differ.

And lastly, for the truth of it, that the Certificate under the Great Seal, was sufficient in a Legal way. These are three things to which I take exception.

My Lords, To find out whether the Record doth warrant these three things of great importance: First, I shall seek for them in the Writ 4 *Augusti*, and next in the *Mittimus*; there is no colour else-where to look for them; to open the Writs rightly will clear these differences, as I humbly conceive, without any great Argument. And first the Writ dated 4 *Augusti* 11 *Car.* I shall read the words

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words wherein the dangers of the Writ are expressed; and then explain what words give that sense that is taken out of them. *Quia datum nobis intelligi, quod Prædones quidam Pirati & Maris Grassatores tam Nomine Christiani Hostes Mahumetani quam alij Congregati; Naves & Bona & Mercimonia non solum subditorum nostrorum, verum etiam subditorum Amicorum nostrorum in Mari, quod per Gentem Anglicanam ab olim defendi Consuevit: Nefarie diripientes homines & spoliantes ea ad libitum suum deportavere, hominesq; eosdem in Captivitate Miserima Mancipantes: Cumq; ipsos conspiciamus, &c.* Here are the Causes and Occasions; all that come after are not material to the stating of the Question.

My Lords, in the opening of this Writ, it is true, there was mention of loss by Merchants, some particular Members of the Kingdom, and this loss but by *Prædones Pirati quia Mahumetani & alij*; and though *alij*, yet *Pirati* still, and no more, then it saith *ipsi*; still these Pirates daily molest the Merchants, *ad gravandum Pirati* still.

Hitherto, I conceive, there is not a word of danger from an Enemy, but from Pirates; not a word of danger to the Kingdom, but to Merchants; however all this is *quod intelleximus*.

The Record goes on thus, *Consideratis etiam periculis, &c.* This part, as I conceive, is not so positive, the dangers are but *Consideratis*, nor the danger to the Body of the Kingdom; no word of that; or if to the Kingdom, yet nothing, whether it be in point of safety, but only in point of molestation, none of all these appears.

And besides, the Clause is too general, not expressing any particular danger, from whom, or how; however, be the danger to the one, or to the other, be it to the Kingdom or Merchants, be it for troubles or safety; hitherto I may say, that there is no mention of any such instant danger, as necessarily did require this instant command in the Writ, not so much as in the Kings Judgment.

For ought it appears, a Parliament, even in the Kings Judgment, might have been called, a consideration taken for Defence: Here be all the Premises upon which the Conclusion must arise; and hitherto nothing material to make a danger to the safety of the Kingdom, and so instantly that a Supply, *nunc aut nunquam*, must come in. Although the Premises, I conceive, are only considerable, yet even the conclusion will be but this, *convenit accelerare*, it is fitting to hasten, but no such necessity; and though it be *convenit accelerare pro defensione Regni*; if that were material, it cannot be construed but with relation to the Premises, whereupon it is built; and whether in fear of trouble, or danger, or loss, *non constat*, and though it be *cum omni festinatione*, yet it is *quia poterimus*, and that is *possumus quod jure poterimus*, that is, with all the hast that by Law you can make, which way that is your Lordships have heard.

Now, my Lords, under favour, it appears on the Record, that there was no such instant necessity, but that a Parliament might have been time enough; for as it was observed, that between the Test of the Writ, and the Rendezvous, there was 200 and odd days, where-

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whereas a Parliament required but 40 days for meeting, the remainder of these 200 days a Parliament might have considered of the means of a Defence; but I leave it to your Lordships to judge, notwithstanding those expences of time cunningly numbered unto your Lordships by the Solicitor; and though it be true, that things oftentimes are long in settling, and deliberating in Parliament; yet Nature tells us, they can be done sooner; and if there be a necessity, we know that will enforce.

I have but opened this Writ *quarto Augusti*: I am now come to the *Mittimus*. The only doubt which I conceive in the Writ of the *Mittimus*, is only that where the Case stands but thus.

In this Writ is recited the Tenor of the Writ dated *quarto Augusti*, and then the Writ goes on, and saith, *Quia salus Regni periclitabitur*, &c. and that is all the Clause in the Record that doth give colour to the Case, so it be made, and on the whole Record we have demurred; here it hath been said, that we have confessed all by the Demurrer; and if that hold not, the King, who is the Judge of the danger, he hath said so, he hath certified it so by the Great Seal.

I shall select a few from many others, on which I shall rely.

My first Answer is this here, the words are, that *salus Regni periclitabitur*, these words in shew seem to be positive, but in substance but relative, and is rather a Comment on the Writ, or an abstract in Point of those dangers mentioned in the Writ, for the Clause was brought in on the Return of the Writ; and if we have the Writ it self, the Comment thereupon, or further explanation thereof, is not material.

2. Second answer I doubt, I say no more; if the King put particular Reasons into the Writ of *quarto Augusti*, whether the Law, I speak of the Legal Course, do permit an After-Writ to put in further Causes of the same nature with the former, and to the same end.

If the Case be thus, our Demurr will be no confession of any such danger.

In the next place, admit the words in the Writ had been Positive, and materially expressed; yet, according to our Rules of Law, it cannot make use of that sence they are now applyed unto; for, at the best, the word *Salus* being proper only to a Physician, Natural Body is applyed as a Body-Politick: It is but a Metaphor which the Law will not endure in Writs, for it would bring in great mischief in Writs and Pleadings. Metaphors are dangerous; we know not how to take Issue upon it; and therefore is not regularly allowed; but I leave it to your Lordships Judgment.

There are no words of such danger of the loss of the Kingdom, that is such instant danger; for apply the words to a natural Body, as *Salus*, *J. S.* is in danger, it doth not presently imply it, that he is in such instant danger of Death; a Doctor will say, that a Patient hath not his Health, yet no danger of Death, which is the common speech; the same sence it must have in a Body-Politique.

If the words were good, and did imply a danger, yet not such a danger of words, as shew a danger that may hazard the loss of the Kingdom; for the words are only *Salus Regni periclitabitur*, and the

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the thing may be now in action, which twenty years hence, if not prevented, may lose the Kingdom: A Man may say that safety is in danger, at the best, the words will not make the Case as it is put.

Mr. Solicitor, out of his great care, searching into every hole where he thought we might peep out, doubting our Demurrer would not be a Confession sufficient; he takes in another help, which is this, that if this be so declared by the Kings opinion, and under the Great Seal, that this alone had been sufficient: for this there hath been urged the legal weight of the Kings affirmation, and of a Certificate under the Great Seal, and both be concluded in this Case.

My Lords, before I answer unto this matter, I profess for my Client and my self, that we owe as much Loyalty to the King our Sovereign, as any; yet I hope I shall be permitted in a legal way to have the Priviledge of them that usually speak in this place: In speaking what is pertinent and material for my Client, I make no doubt of the Kings word, and believe there was danger, though not so apparent to us, but only both to allow it as sufficient in a legal Proceeding, and that His Majesty, who in His own worth deserves it, by after Princes might turn to disadvantage. That which we urge is, how far in form of Law this may be allowed, which we shall argue, and that briefly, for the Case needeth not help.

For this Point, I take it for clear, under your Lordships favour, that in legal Proceeding, and regularly, His Majesties Opinion and Certificate in things of fact, is not binding.

My Lords, the Reason wherein I shall most rely to avoid the sense of the Writ *Salus Regni*, &c. is this, That though it do now appear by the *Mittimus*, that *quarto Augusti* the Kingdom was in danger of being lost; yet it is not sufficient in Law, nor can our Demurrer hurt us, because it must have so appeared by the Writ *quarto Augusti* it self; for the Writ and Declaration in Law must ever contain precisely so much of matter, as is necessarily true to warrant the demand.

In this, to see the mischief, if a danger now declared makes the Case, how shall the Subject know on the Writ *quarto Augusti*, whether to obey or no? the Law binds no Man to divine; and if this subsequent Declaration shall mend the Case, then the Subject shall be a wrong-doer, *ex post facto*, which is against the reason of our Books. I shall remember the Cases put by Mr. St. John to another purpose, 22. Aff. 5. 24 E. 3 Br. Com.

A Commission sent forth without expressing the cause, that Commission is not good, and it is not denied by Mr. Solicitor; a cause must be set forth to make it good in Law. And if your Lordships be pleased to look on the Presidents, (as I know you will) which the Kings side shall bring unto you, your Lordships will find the danger turned from the first Writ to the last; nay in the Writ of this year, as I am told, it is so, out of their opinion fearing the Writ *quarto Augusti* was not so good as they would have it; they put it into the *Mittimus*: which they know could not do good, but they did it only to cavil.

But

But lastly, admit that the King had said, that the Kingdom was in such instant danger and loss, and that there was an instant necessity of the command this way, and that this could not have expected a consideration in Parliament; yet if the contrary appears in the Record, then neither was the Demurrer a Confession, nor the Certificate conclusive.

My Lords, in the conclusion upon all this discourse it appears, I have so pared the Case, that on the Writ dated *quarto Augusti* there appears no danger to the Kingdom of being lost; that on the *Mittimus* there is no legal, home, express words of danger to the Kingdom, instant or unavoidable; if it were so, yet it cometh not time enough, for it should have been in the Writ dated *quarto Augusti*.

And if expression of such instant danger in *Quarto* or *Mittimus*, yet not material, if otherwise on Record.

And lastly, this Certificate doth not conclude us: Thus then to shew what the Case is, and to what it is not, I have put out of the consideration of the Case all consideration of such dangers to the safety of the Kingdom as are unavoidable.

I have left nothing in the Case but consideration of protecting Merchants against Pirates, but for ordinary Defence of the Sea.

If the Case do fall thus, I humbly conceive, that in this place without further Argument, I might with some confidence venture my Client upon your Lordships Judgments, notwithstanding any thing offered on the King's part. Here Mr. *Holborne* made a little stay, but the Lord Chief Justice *Finch*, in the name of the Court bid him proceed in his Argument; then said he, By your Lordships command I shall proceed; having laid aside the *Mittimus* and *Salus Regni*, and taking the Case only on *quarto Augusti*, which, as I take it, is nothing of danger to the Kingdom, but against Merchants, and but of common Defence: The Case stands thus.

That though there be no actual Invasion, no known or declared Enemy, yet the King, out of His Judgment, *quarto Augusti* 11 Car. apprehendeth and foreseeth danger to the Kingdom in point to be lost, and that the danger so instant and unavoidable requireth this Aid; whether the King out of Parliament, by His Regal Power, can command this Supply?

I have endeavoured not to mistake the Solicitor; it were an injury to requite him so ill.

Upon the whole my end is to shew, that by the fundamental Policy of *England* the King cannot, out of Parliament, charge the Subject, neither for common good, unless in special Cases, and of a different nature, or upon different reason, nor for a necessary Defence, though, in the King's Judgment, instant and unavoidable.

My Lords, In the debate of these two Questions I have learned of Mr. Solicitor not to say all I could, but so much as is necessary; and as he hath chalked out the way, I shall enquire on this Power by Arguments upon practice constant and allowed in time of good Government, when the liberty of the Subject was not trampled upon, and shew it by Acts of Parliament, Reason and Authority on both.

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My Lords, I am now come close to the Argument upon the main; before I begin give me leave to profess that I am in a Dilemma, the Question will be what the King can do in those Cases by his Regal Power: it much concerns him, and I have learned out of a Speech of his late Majesty what it is to debate such questions; not to argue it were to disobey the Assignment of the Court, and to desert my Client and the Cause; for my Part, as your Lordships see, I have laboured to decline the main Question, and should be glad it should so sleep: I shall offer it if happily the case fall off in the opening of the Writs, I doubt whether the way of Argument I must otherwise take should do the Crown disservice.

Out of my duty to Majesty, and service to your Lordships, I humbly offer it whether your Lordships may not think it fitting to determine the Question upon the framing of the case as it is upon record, before it be further argued; and here I shall rest, or upon Command ready to go on.

Hereupon the Court declared, by the Lord Chief Justice *Finch*, that they do not use to judge Cases by Fractions; whereupon Mr. *Holborn* said, Since it is your Command, I shall go on.

I hope His Majesty will excuse us for arguing that which else cannot be determined, and as he hath given way to an Argument, I hope his goodness will excuse us while we do our duty for our Client, and if I err in my materials, or in the way of my arguing, it's from the defect of my wisdom (I cannot be wiser than God hath made me) and not out of any disaffection to the service.

My Lords, I hope neither His Majesty nor your Lordships will think it a presumption if I make a straight enquiry into a point of a higher nature, yet thus far I assure your Lordships, if any matter or consideration of State come in my way, I shall tread as lightly as I can, yet I must crave liberty to pick out some to refer to your Lordships Consideration, and forbear those things that are unfit. Here the Court said, by the Lord Chief Justice *Finch*, Keep you within the bounds of duty, as befits one of your Profession at the Bar at *Westminster*, and you shall have no interruption.

My Lords, I shall be very wary and tender: I shall now open the division and several parts of my Argument.

My Negative part, that the King cannot out of Parliament charge the Subject, not only for guard of Sea against Pyrates, but not for the defence of the Kingdom ordinary, though the King judges the Kingdom in danger to be lost and unavoidably endangered, and in this I must take in the defence, as well the Defence of Land as Sea.

My positive part, regularly the King is to be at the charge for guarding the Sea against Pirates, for defence of Land and Sea against Enemies so far as he is able, and further if he were more able, and that the King hath provision and consideration for both, and especially for Sea-service.

In the prosecution of these two general parts, I shall not only propose mine own considerations, but joyn them with Mr. *St. John's* as I can further inforce them, or justifie against the Solicitors denial or evasion.

And

And this course will necessarily bring in many of his Arguments, which I could be glad to spare if the cause would bear it, because your Lordships should not think that I do nothing but repeat.

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I this way I shall humbly endeavour to clear each part by giving a reply before I descend to other particulars, and where I conceive a new Objection which will not fall within any former Answers, I will raise it and endeavour to lay it. Into these general Questions will fall many other of greater consequence.

For such as not being the main, I will not draw upon particular debate where there is any thing that concerns matter of State or revenue, I hope to admit such and save my Clients case.

Having thus unfolded my form of Argument, I descend to my Negative, that the King in none of these cases without Parliament can charge the Subject.

I. I'll prove it from Reason, which is Master over all Authority as said Mr. *Solicitor*, and from Reason drawn from the fundamental policy of the frame of this English Government, in the necessary attendance of the publick advice in Parliament upon the Royal Power; And secondly from the absolute property the Subject hath in his Lands and Goods. From these things I shall draw my Reasons.

For the political advice in Parliament, I shall here decline all School disputes, the Spider may make Poyson out of that which the Bee sucks Honey; I shall omit the consideration of some points. I shall make my rise from the Judgement of King *James* 169. in his Speech of Parliament, wherein His Majesty agrees that a King in *Concreto* can do no more than the fundamental Laws of the Kingdom alloweth, for more I assure my self His Majesty desireth not.

Before I enter into the Argument further, whether the Law hath intrusted the King out of Parliament in either of the cases put, I here profess for my Clyent and my self, that while we speak of political advice, and how far a Governor subject to Error and Will may use a Regal Power, we do always with thankfulness to him acknowledge our present happiness to be blessed with so just a Prince, and we fetch it from our hearts, and were His Majesty so immortal as he deserves, and that His Successors might be Heirs to His Vertues and His Crown, we should wish that the Regal Power might be free from political advice and unlimited.

Here my Lord Chief Justice *Finch* said, this belongs not to the Bar to talk of future Government; it is not agreeable to duty to have you bandy what is the hopes of succeeding Princes when the King hath a Blessed Issue so hopeful to succeed him in his Crown and Vertues.

L. C. J. Finch.

My Lords, For that whereof I speak, I speak looking far off, many ages of 500 years hence.

My Lords, Because I might run on to a further error, if I should not take your advice, I shall slip over much, and the sum of all is;

I. An Argument from the Policy of *England*, in the necessary attendance on the particular advice in Parliament.

very hope
full indeed
so hopefull
the last
was kicked
out of the
Kingdom
he was so
hopefull !!!

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2. It will be from the absolute property that the Subject hath in his Goods.

Taking that for granted against the Book of *Cowel*, the Proclamation against it in the year of King *James*, that *Cowel* hath written under the word *Parliament*, of the Kings Power out of Parliament, saith, that Power in Parliament is but a politick mercy; this was complained of in Parliament, and by a Proclamation the Book was denied: your Lordships know another Book that was sentenced upon the same occasion; this use that I make of it is,

If the form of *English* Government stand in the Regal Power, and the Subject hath a property in his Goods, then the adequate reason from both these, that therefore the King cannot without Parliament charge the Subject in his Estate, though in pretence of common good, then a Prince 500 years hence, if subject to Error or Will, may if he will upon any occasion or no occasion, may at what rate he will charge the Subject to the height.

As to the advice political, if the King can do this alone, what is become of the policy for which the political advice was made, attendant to the Regal Power, *Ne respub. &c.*

If the Subject hath a property in his Goods, how is it in the power of any one alone to charge that with money?

This reason I must not leave, for on this the Cause stands or falls; though there be many Books and Cases, yet all are from reason, but especially when these stand together.

The Author here breaks off with these few passages in Mr. *Holborn's* first days Argument, which continued three days longer; here followeth the days that the Council of both sides argued upon, *viz.*

November 6. 1637. Oliver St. John of *Lincolns-Inn* Esquire Argued.
November — He concluded his Argument.

November 11. Sir Edward Littleton Knight, the Kings Solicitor-General, Argued.

November 13. He Continued his Argument.

November 14. He still Continued his Argument.

December 2. Robert Holborn of *Lincolns-Inn* Esquire, Argued.

December 4. He Continued his Argument.

December 6. He also Continued his Argument.

December 8. He Concluded his Argument.

December 16. Sir John Banks Knight, the Kings Attorney-General, Argued.

December 18. He Concluded his Argument.

It was *Trin' Term.* 1638. before Judgment was entred in this Case, and in regard that year will be clogged with much matter of preparation for a War with the *Scots*, &c. We shall here insert, though out of time, these following Orders concerning the entring Judgment against Mr. *Hampden*, *viz.*

Termino

*Termino Sanctæ Trinitatis Anno 14. Regis Car.
Martis 11. die Junij.*

13 Caroli

W Hereas divers several Sums of mony, by vertue of the King's Majesties Writ, under the Great Seal of *England*, bearing date the 4th of *August*, in the 11th year of His Majesties Reign, were Assessed and Charged upon several Persons, for and towards the provision of a Ship of War, together for the Furniture and other things thereunto belonging, in the said Writ particularly mentioned; which said several sums of money so Assessed and Charged and not being satisfied and paid, the names of the several Persons, together with the several sums charged upon them, were by His Majesties Writ of *Certiorar*, bearing date the 9th day of *March*, in the twelfth year of His Majesties Reign, certified into this Court of Chancery, and by His Writ of *Mittimus* under the same Seal, bearing date the 5th day of *May*, in the 13th year of His Majesties Reign, were sent into this Court of Exchequer for further Process to be had thereupon, as by the said several Writs may appear: And whereas Process of *Scire Facias* was the 22^d of *May*, in the said 13th year of His Majesties Reign, awarded to the Sheriff of the said County of *Bucks*, directed to garnish the said several Persons in a Schedule of the said *Scire Facias* annexed, contained to shew cause the *ut*as of the Holy Trinity then ensuing why they should not be charged, and satisfy the said sums of money assessed upon them. In which Schedule it was contained amongst divers others, that *John Hampden* Esquire was assessed at 20 s. as by the said *Scire Facias*, and the Schedules thereunto annexed, may also more fully appear; whereupon the said *John Hampden* Esquire being garnished by Sir *Anthony Chester* Baronet, then Sheriff of the said County of *Bucks*, appeared and demanded Oyer of all the aforesaid Writs, which being read unto him, he thereupon demurred in Law, and Sir *John Banks* Knight, His Majesties Attorney General, joyned in the said Demurrer; and the Record thereof being made up, it pleased the Barons of this Court (the same matter being of great Consequence and Weight) to adjourn the arguing of the same matter into the Exchequer Chamber, and to desire the Assistance and Judgment of all the Judges in *England* touching the same. Now upon the motion of His Majesties Attorney General this day informing this Court, that seeing the said matter hath been so solemnly debated and argued, as well by the Counsel of the said Defendant, and by some of His Majesties learned Counsel, as also by all the Judges of *England*, and by the Barons of the Exchequer, and that the major part of the said Judges and Barons have delivered their Opinions and Judgment, that the said *John Hampden* ought to be charged with, and to satisfy the said sum of 20 s. and therefore the said Mr. Attorney moved this Court that Judgment might be entered accordingly; it is thereupon ordered by this Court that Judgment shall be forthwith entered, that the aforesaid *John Hampden* ought to be charged with and satisfy the aforesaid sum of 20 s.

An Order upon Mr. Attorney General's Motion to enter Judgment against Mr. *Hampden*.

Involved by right to be given the Record

Memo-

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Memorandum, that 12 Junii 14 Caroli Mr. Attorney moved the Court of Exchequer for Judgment against Mr. *Hampden*, and after he had opened the Record he said,

Your Lordships and the Court in respect of the greatness of the Cause did adjourn it into the Exchequer Chamber, that your Lordships and the Court might receive the advice of all the Judges, whose advice and opinion your Lordships have already heard and received, and the plurality of their voices is, that Judgment should be given against Mr. *Hampden*, and accordingly I do pray Judgment.

To which the Lord Chief Baron answered,

It is very true, it was referred from hence to the Exchequer Chamber to receive the advice of all the Judges in the Land, we do not take them to assist only by way of advice, but for a judicial direction; for admitting we four were of one opinion and the rest of the Judges of another (though the Cause properly depends in this Court) yet we must apply our selves to their resolution, and our Voices are involved in theirs, and there accordingly *secundum Legem, &c. oneretur Johannes Hampden*.

Now that we have imparted to the Reader the Arguments of two of the Council *Pro & Con*, in the Case of Ship-money, the Author begs leave (although out of time) to mention the Articles of Impeachment against Judge *Berkley* (one of the Judges before whom that Cause was Argued) for delivering his opinion against Mr. *Hampden*, which is a President as to the rest of the Judges; for it would be too tedious to mention every particular Judge's Charge; and as an Introduction to the said Articles of Impeachment, here is also mentioned the Speech of *William Perpoint* Esquire (a Member of the House of Commons) unto the Lords at the time of the delivery of the Charge against the said Earl.

William Perpoint Esquire, his Speech in Parliament, at a Conference of both Houses in the Painted Chamber.

My Lords,

I Am commanded to present your Lordships these Articles, with which the Knights, Citizens and Burgeesses of the Commons House of Parliament, in their own name and in the name of all the Commons of *England*, impeach Sir *Robert Berkley*, Knight, one of the Justices of His Majesties Court of King's Bench, in maintenance of their accusation of High-Treason, and other great Misdemeanors, the Articles they desire may be read. Whereupon the Articles were read by Mr. *Francis Newport*, a Member of the House of Commons, then Mr. *Perpoint* proceeded and said.

The

The high Treason is in the first Article, in his endeavours to subvert the fundamental Laws of this Realm, and to introduce an arbitrary and tyrannical Government, which hath been lately adjudged Treason in the Cause of the Earl of *Strafford*.

The other Articles prove the first, by his Opinions, Certificates, Judgments, by his denials of the benefit of our Laws, which have been read by your Lordships. No fundamental Law to the Subject is left; our Goods, our Lands, our Bodies, the peace of a good Conscience, are by him given up to arbitrary tyrannical Government.

Nothing hath been omitted to make a Judge know the Laws, to make him just, or fear him from being evil: We have Inns of Court peculiar to that Study, Judges from thence only chosen; seldom any but what have been twenty years there; Honours and Revenues are given to Judges, encouragement to do well; this Judge had these: Judges are sworn according to Law to serve the King, and His People; according to Law to counsel the King; and for not so doing, to be at His Will for Body, Lands and Goods; this Judge took that Oath; the Laws, the Judges Study, impose the greatest punishment upon unjust Judges, they shew that these punishments have been inflicted, more could not be done to persuade or fear a Judge.

His offences shew in him great ambition, yet he was most timorous of displeasing the great in Power; he did not only forbear doing what he was sworn to do, but was most active against our Laws, and in opposing and punishing any that did maintain them.

To have only received Bribes, (though they blind the Eyes, and though the desire to get Money increaseth with Age) that hainous crime in a Judge had been, in comparison with his offences, a tolerable vice; for from such a Judge Justice is also to be had for Money. Ambition is violent, and ruins, whilst covetousness is making a bargain.

The words of his Opinion and Judgment are for the King's Power. It is pleasing to the nature of Man that others should obey his Will; and well-framed dispositions of Princes may easily be persuaded their Power is unlimited, when they are also put in mind, that therefore they have more cause to do well, and for doing well are more renowned; for the most oppressive designs, (which we have suffered under) the pretences of His Majesty have ever been the good of His Subjects; his is the sin, that is to judge by the Laws, and knows the Laws are to the contrary, yet puts and confirms such thoughts in his Prince.

He that incites another to arbitrary Government, when his self-ends are thereby compassed, hates him for taking that Power he persuaded him unto.

The Writs, those *monsters of necessity*, to provide Ships to avoid imminent danger that could not stay 40 days for the calling of a Parliament, were therefore to go out in *September*, to have Ships ready in *March*. This hath been adjudged by your Lordships to be destructive to the fundamental Laws of this Realm, and to the Subjects right of Property and Liberty, &c. that I shall say but this concerning them; that this Judge published them to be insepara-

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perable Flowers of the Crown. And that we have lived to see for five years together imminent danger, and thus to be prevented.

This Judge did advise to such a Government, as future Kings here might exercise the highest tyranny, and the Subjects want the benefit of restraints, known to the most slavish Eastern Nations; where, if their Prince do unjustly, he hath hatred for it, and the dangers that follow that. This Judge will have that hatred to go to our good Laws: *No such bondage as when the Laws of freedom are mis-interpreted by Judges to make Men Slaves.*

What can be considered of in a Judge of Law, to give his opinion and advice to his Prince, how the Laws (the mutual Covenants of Kings and Subjects) are to be broken, but that his intentions are to have his Prince do ill, by making his evil Servants to study, and to be pleased with their wicked designs; because they see means to put them in execution, by making them to persuade their Prince, because in imminent danger His Subjects Goods are at his Will, *that there is such danger when there is not*, and that they have only some by-ends of their own.

This Judge will have the Law to be what to him seems reason; the reason limited to him to judge of, is what the Common-Law faith is so, what a Statute hath so enacted. For him to judge this or that is Law, else a mischief shall follow, because the Law in such a thing is imperfect, therefore he will make a Law to supply it; or because that the Law written in such Particulars is against his reason, therefore his reason's to be Law; then must follow, as often as a Judges reason changes, or Judges change, our Laws change also.

Our Liberties are in our Laws, where a Subject may read, or hear read; this is his, this he may do and be safe; and that thus the Judge ought to give Judgment, he is free. The excessive growths of Courts of Reason, Conscience came from great and cunning Persons; and though not the most sudden, yet the most dangerous, and sure ways to eat out our Laws, our Liberties.

Unlimited Power must be in some to make and repeal Laws to fit the dispositions of times and persons: Nature placeth this in common consent only, and where all cannot conveniently meet, instructeth them to give their consents to some they know or believe so well of, as to be bound to what they agree on. His Majesty, your Lordships, and the Commons, are thus met in Parliament; and so long as we are often reduced to this main foundation, our King and we shall prosper.

This Judge will not allow us our Knowledge, or any Reason, he will have our Minds, our Souls Slaves: A Grand-Jury-man gave his Fellows true Information; they present an Innovation in the Church, are threatned and reviled for it; he that told this truth is charged (I shall use this Judge's own words) to sin in that, and that he made others forswear themselves; this Judge sent him to the Common Gaol, where he is laid in Irons; and all this, because he and they durst meddle with Church matters. He is forced to tear the Presentment in Pieces in open Court; our Laws provide for the peace of our Consciences, many Acts of Parliament are for it, and the trust by those Acts set to Juries; this Judge well knew all this;

your

Your Lordships have heard what he did to the Jury at *Hartford*; he would have us know no more Divinity than to obey what the great of the Clergy directed, no more Law than what he said was so.

13 *Caroli*

Judges in former times, (but only such as were examples of punishment, as of injustice in Cases of great and publick concernment) forbore proceedings, till the next Parliament. This necessitated the calling of Parliaments; this Judge had as many such Causes before him, as ever any had; yet he never desired the resolution of Parliament in any one, for the ways he went, the necessity was never to have a Parliament; he would pull up that root of our safeties, and liberties, which whilst we enjoy, the malice or injustice of all other Courts and Persons can never ruine, and when near to ruine (as most near of late) this only sure remedy will help us; nothing can ruine a Parliament, but it self.

The evils which we have suffered under, they were committed by the Judges, or by them ought to have been, and might have been prevented.

This Judge assisted in causing the miseries we suffered in the *Star-Chamber*, and at the Council-Table, he denied the known Rights which he ought to have granted us to stop our grievances in the Ecclesiastical Courts, he was the causer of our sufferings in other Courts.

The best lovers of their Laws and Liberties, the most honest suffer most by an unjust Judge, they most oppose his vices; dishonest persons find such a Judge to fit their purposes, the Judge finds them for his, the Bond of iniquity confederates them.

He that will do no wrong, will suffer none which he can help: The Man that knows himself born free, will do his utmost to live so, and to leave freedom to his Posterity; were he in slavery, when by outward gesture thought to be most delighted, were his mind then known, there would be found vexation, and his busie thoughts employed to redeem himself and his Posterity from thralldom. But to say, could this Judge intend to make himself and his own Posterity Slaves? what he did was through error of Judgment only: No, my Lords, what his aymes and endeavours were, is apparent. To consider Man in the general, we shall find in every Age he will be a Slave to some few, that many may be Slaves to him, he looks to himself only; this he would do, or forbear doing, to be great, to be rich, had he Children or Kindred, or had none. This highly unjust Judge, by continuing sins, maintained his actions to preserve himself, he knows to be found guilty in one of his offences, the penalty of the Law for it, therefore covers the offences committed with inventing and acting other.

For a Judge to be unjust, more hurts the publick than any other, he is not suspected. What a Judge doth, is looked on as a thing that ought to be done. The most pernicious great Man, that by cunning hath got to himself the Heart and Tongue of his Prince, his ill Acts have dyed with him, if not taken up by others, and then they walk in darkness: No Man will justifie what he doth by saying such a Favourite did it; but the unjust Judgments of this Judge were given in Noon-day, were done in the face of the whole Kingdom, in the hearing of such as might carry the news to

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all parts of the Realm, and was therefore done; his unjust Judgments were our Records. We have seen wicked great Men most craftily politick, they hated our Laws, yet not meeting with active Judges moulded to their purposes, they and their Acts have dyed, the Realm flourished; but of late, others less politick meeting with most unjust Judges, every way as ill as they could wish them to be, then did the Kingdom faint, under the load of its misery did long struggle; now it's rising, I assure my self, your Lordships will assist to take off the burden.

If the designs of some would not have such a Man to be at liberty, a Warrant from some Lords of the Council would soon have laid him in Prison, and given no cause; had he moved this Judge to be discharged or bailed, he could have obtained neither, if their ways would not have endured that Man to live, a Judge reviling the Prisoner, and the Council that moved for his discharge on bail, joyned with the hate of some great Man, might soon have moved a Goaler for unwholesom rooms and lodging, and ill diet for his Prisoner, and they may soon take life away: Offenders in Prisons are looked after to be safe only, such as are brought in by Power against Law, are abused.

Had a great Man desired the Estates of others, the breach of a Proclamation might readily have been charged against them in *Star-Chamber*: but they, it may be, could have answered and cleared themselves, and proved their Answer by Testimonies; had they been referred to this Judge, he would have expunged the one, suppressed the other. Then followed Fines to the value of their Estates or more, then Imprisonments of course till they paid such Fines; your Lordships have heard what this Judge did to the *Soap-boilers*.

The Countryman followed the Plough, and to his thinking he was assured of his Right, Property, and Liberty; gave him ability to do it. He believed his Neighbour, his Landlord, his King, could not take his Goods from him without his consent. He knew the usual Payments by Law, and in extraordinary Causes thought to have that care to chuse such for the Knights of his Shire, or for his Burgeses, as might be mindful of the cause of payment, and of his Estate.

This Countryman hath heard the Opinions and Judgment of this Judge, hath seen his Goods taken from him, without his, or his Knights of the Shire, or Burgeses consent or advice. These have made him, his Wife and Children to joyn in tears to wish they had never been born, they have made them think on many ways to keep safe that Estate which was yet left them, have made them desire to sell all their Goods, and hide the Money; but then he remembers this Judge, how that he shall be carried to Prison, and remain there, if he pay not what please others to Assess him: Then they think idle persons (the Drones and Moths of the Common-Wealth) to be a wise People, whilst the Countrymen expect, and can think of nothing, but being Beggars.

Where publick and enormous offences have been committed, eminent and notorious punishments must be; such will make your Lordships Proceedings highly esteemed, else there will be so many offenders, and none without danger can be punished.

This

This Judge subverting our Laws, took away the Hearts of many; he subscribed for the Kings Power, but so as he put him on taking his Subjects Goods, and of all other, such ways be most dangerous; for we know His Majesty is not the last that suffers, and is not the King worth many thousands?

13 Caroli.

The place of this Judge was to have given and preserved to the King the Hearts of His Subjects, the due execution of the Laws had done this; and when such notice is taken of a Prince, none will conspire against him, who cannot feign to themselves safety before or after any Fact committed, Foreign Enemies will not invade His Kingdoms.

Thus hath His Majesty now got our Hearts, and will for ever have them. This Judge is to answer for what His Majesty, and for what we have suffered.

I am commanded by the House of Commons to desire of your Lordships, that the Proceedings against Sir *Robert Berkely* Knight, one of the Justices of His Majesties Court of *Kings-Bench*, may be put in as speedy a way of Tryal, as the Course of Parliament will allow.

Also Mr. *Hollis*, at the same time, made a Speech in the behalf of Sir *Randolph Crew*, sometimes Lord Chief-Justice of the *Kings-Bench*, but removed, his opinion was against Loan-Money; but more of this hereafter.

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Articles of Impeachment of Sir Robert Berkely Knight, one of the Justices of the Court of Kings-Bench; by the Commons in this present Parliament assembled, in their own Name, and in the Name of all the Commons of England, in maintenance of their Accusation, whereby he standeth charged with High Treason, and other great Misdemeanours.

Imprimis, **T**Hat the said Sir Robert Berkeley, then being one of the Justices of the said Court of Kings-Bench, hath traiterously and wickedly endeavoured to subvert the fundamental Laws, and established Government of the Realm of *England*; and instead thereof, to introduce an Arbitrary and Tyrannical Government against Law, which he hath declared by traiterous and wicked words, opinions, judgments, practises, and actions appearing in the several Articles ensuing.

2. Whereas by the Statute made in the 25th year of the Reign of King *Henry* the 8. Prices of Victuals are appointed to be rated in such manner, as in the said Statute is declared: But it is manifest by the said Statute, Corn is none of the Victuals thereby intended. Nevertheless some ill-affected Persons endeavouring to bring a Charge upon the Subjects contrary to Law, did surmise, that the Prices of Corn might be rated, and set according to the direction of that Statute; and thereupon great gain might be raised to His Majesty by Licenses and Dispensations for selling Corn at other Prices: And a Command from His Majesty being procured to the Judges, and sent to them by *William Noy* Esq; His Majesties then Attorney-General, to deliver their Opinions touching the Question, whether Corn was such Victuals as was intended to have the Price rated within the said Statute: In answer to which demand, the said Sir Robert Berkeley then being one of His Majesties Justices of the Court of *Kings-Bench*, in furtherance of the said unlawful Charge, endeavoured to be imposed, as aforesaid, the thirtieth day of *November*, in the eighth year of His now Majesties Reign, did deliver his Opinion, that Corn was such Victual as was intended to have the Price rated within the said Statute; which said opinion was contrary to Law, and to the plain sense and meaning of the said Statute, and contrary to his own knowledge, and was given and delivered by him, with a purpose and intention, that the said unlawful Charge might be imposed upon the Subject.

3. That

3. That an Information being preferred in the Court of *Star-Chamber* by the said *William Noy*, His Majesties then Attorney-General, against *John Overman*, and fifteen other Soap-makers, Defendants, charging them with several pretended offences, contrary to divers Letters Patents, and Proclamations, touching the making and uttering Soap, and using the Trade of Soap-makers, and other offences in the said Information mentioned; whereunto the Defendants did plead, and demurr as to part, and answer to other part of the said Information: And the said Plea and Demurrer being over-ruled, for that the Particulars therein insisted upon, would appear more fully after answer and proof; therefore the Defendants were ordered to answer without prejudice, and were to be admitted to such exceptions to the said Information and advantages of the matter of the Plea and Demurrer upon the hearing, as shall be material; and accordingly the Defendants did put in their Answers, and set forth several Acts of Parliament, Letters Patents, Charters, and Acts of Common-Council of the City of *London*, and other matters materially conducing to their Defence; and, in conclusion, pleaded not guilty. The said Sir *Robert Berkeley* then being one of the Justices of the Court of *King's-Bench*, upon the 30th day of *March*, in the eighth year of His Majesties now Reign, upon an Order of reference to him and others, by the said Court of *Star-Chamber*, to consider of the impertinency of the said Answers, did certify the said Court of *Star-Chamber*, That the whole Answers, excepting the four words, and ten last lines, should be expunged; leaving thereby no more substance of the said Answers, than the Plea of not guilty. And after, upon a reference to him and others, by Order of the said Court, of the impertinency of the Interrogatories, and Depositions of Witnesses taken on the Defendants part, in the same Case of Sir *Robert Berkeley*, upon the second day of *May*, in the eighth year of His now Majesties Reign, certified, That nine and thirty of the said Interrogatories, and the Depositions upon them taken, should be suppressed with Answers, (except as aforesaid) and Depositions, although the same did contain the said Defendants most material defence. Yet were expunged and suppressed according to the said Certificates; both which said Certificates were contrary to Law and Justice, and contrary to his the said Sir *Robert Berkeley's* own knowledge, and contrary to the said former Order, whereby the advantages were saved to the Defendants, as aforesaid: And by reason thereof the said *John Overman*, and the said other fifteen Defendants, were sentenced in the said Court of *Star-Chamber* to be committed Prisoners to the *Fleet*, and disabled from using their Trade of Soap-makers; and one of them fined in 1500 *l.* two of them in 1000 *l.* a-piece, four of them 1000 Marks a-piece; which Fines were estreated into the *Exchequer* without any mitigation: And the said Defendants, according to the said Sentence, were imprisoned, and deprived of their Trade and Livelihood, tending to the utter ruine of the said Defendants, and to the overthrow of free Trade, and contrary to the Liberty of the Subject.

4. That

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4. That he the said Sir *Robert Berkeley*, then being one of the Justices of the *King's-Bench*, and having taken an Oath for the due administration of Justice, according to the Laws and Statutes of this Realm, to His Majesties Liege-People, on or about the last of *December* subscribed an opinion *in hæc verba*. I am of opinion, that as where the benefit doth more particularly redound to the good of the Ports or Maritime Parts, (as in Case of Piracy or Depredations upon the Seas) there the charge hath been, and may be lawfully imposed upon them, according to Presidents of former times; so where the safety and good of the Kingdom in general is concerned, and the whole Kingdom in danger, (of which His Majesty is the only Judge) there the charge of the defence ought to be born by all the Realm in general: This I hold agreeable both to Law and Reason.

5. That he the said Sir *Robert Berkeley*, then being one of the Justices of our Court of *King's-Bench*, and duly sworn as aforesaid; in *Feb. 1636*. subscribed an extra-judicial opinion, in answer to Questions in a Letter from His Majesty *in hæc verba*.

Charles Rex.

When the good and safety of the Kingdom in general is concerned, and the whole Kingdom in danger; whether may not the King, by Writ under the Great Seal of *England*, command all the Subjects of this Kingdom at their charge to provide and furnish such number of Ships, with Men, Victuals and Munition; and for such time as he shall think fit, for the defence and safeguard of the Kingdom, from such danger and peril? and by Law compel the doing thereof in case of refusal, or refractoriness? and whether in such case is not the King sole Judge, both of the danger, and when and how the same is to be prevented and avoided? *C. R.*

May it please your most excellent Majesty, we have, according to your Majesties command, severally every Man by himself, and all of us together, taken into serious consideration, the Case and Question Signed by your Majesty, and inclosed in your Royal Letter; And we are of opinion, that when the good and safety of the Kingdom in general is concerned, and the whole Kingdom in danger, your Majesty may, by Writ under Great Seal of *England*, command all your Subjects of this your Kingdom, at their charge to provide and furnish such number of Ships, with Men, Victual, and Munition, and for such time as your Majesty shall think fit for the defence and safeguard of the Kingdom from such danger and peril; and that by Law your Majesty may compel the doing thereof in case of refusal, and refractoriness: And we are also of opinion, that in such case your Majesty is the sole Judge, both of the danger, and when and how the same is to be prevented and avoided. *John Brampton, John Finch, Humphrey Davenport, John Denham, Richard Hutton, William Jones, George Crooke, Thomas Trevor, George Vernon, Robert Berkeley, Francis Crawley, Richard Weston.*

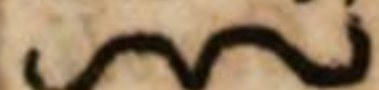
6. That

6. That he the said Sir Robert Berkeley, then being one of the Justices of the Court of *King's-Bench*, and duly sworn as aforesaid, did on the *Exchequer-Chamber* against *John Hampden Esq;* in the Case of Ship-Money, That he the said *John Hampden*, upon the matter and substance of the Case, was chargeable with the Money then in question; a Copy of which Proceeding and Judgment the Commons of this present Parliament have delivered to your Lordships.

7. That he the said Sir Robert Berkeley, then being one of the Justices of the Court of *King's-Bench*, and one of the Justices of *Affize for the County of York*, did at the Assizes held at *York*, in *Lent 1636*. deliver his Charge to the Grand Jury, That it was a lawful and inseparable Flower of the Crown for the King to command, not only the Maritime Counties, but also those that were Inland, to find Ships for the defence of the Kingdom. And then likewise falsely and maliciously affirmed, That it was not his single Judgment, but the Judgment of all his Brethren, witnessed by their Subscriptions. And then also said, That there was a rumor, that some of his Brethren that had subscribed, were of a contrary Judgment; but it was a base and unworthy thing, for any to give his Hand contrary to his Heart; and then wished for his own part, that his Hand might rot from his Arm, that was guilty of any such crime; when as he knew that Mr. Justice *Hutton*, and Mr. Justice *Crooke*, who had subscribed, were of a contrary opinion, and was present when they were persuaded to subscribe; and did subscribe for conformity only, because the major number of the Judges had subscribed. And he the said Sir Robert Berkeley then also said, That in some Cases the Judges were above an Act of Parliament; which said false malicious words were uttered, as aforesaid, with intent and purpose to countenance and maintain the said unjust opinions, and to terrifie His Majesties Subjects that should refuse to pay Ship-Money, or seek any remedy by Law, against the said unjust and illegal Taxation.

8. That whereas *Richard Chambers* Merchant, having commenced a Suit for Trespass, and false Imprisonment, against Sir *Edward Bromfeild* Knight, for imprisoning him the said *Chambers*, for refusing to pay Ship-Money, in the time that the said Sir *Edward Bromfeild* was Lord Mayor of the City of *London*; in which Suit the said Sir *Edward Bromfeild* did make a special Justification: The said Sir Robert Berkeley then being one of the Justices of the Court of *King's-Bench*, in *Trinity Term* last, then sitting on the Bench in the said Court, upon debate of the said Case between the said *Chambers* and Sir *Edward Bromfeild*, said openly in the Court, That there was a Rule of Law, and a Rule of Government: And that many things which might not be done by the Rule of Law, might be done by the Rule of Government: And would not suffer the point of Legality of Ship-Money to be argued by *Chambers* his Council; all which Opinions, Declarations, Words,

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Words, and Speeches, contained in the third, fourth, fifth, sixth, seventh, and eighth Articles, are destructive to the fundamental Laws of this Realm, the Subjects Right of Property, and contrary to former resolutions in Parliament, and to the Petition of Right; which resolution in Parliament, and Petition of Right, were well known to him, and resolved, and enacted, when he was the King's Serjeant at Law, and attendant in the Lords House of Parliament.

9. That the said Sir *Robert Berkeley*, then being one of the Judges of the Court of *King's-Bench*, and being in Commission of the Peace, and duly sworn to execute the Office of a Justice of the Peace in the County of *Hertford*, on or about the 7th of *January* 1638, at which time this general Sessions of the Peace for the said County were there holden: The said Sir *Robert Berkeley*, then and there sitting on the Bench, did *revile and threaten the Grand Jury* returned to serve at the said Sessions, for presenting the removal of the Communion-Table in *All-Saints Church* in *Hertford* aforesaid, out of the place where it anciently and usually stood, and setting it Altar-ways, against the Laws of this Realm, in that Case made and provided, *as an Innovation in matters concerning the Church*, the said Grand Jury having delivered to them in charge at the said Sessions, by Mr. Serjeant *Atkins*, a Justice of the Peace for the said County of *Hertford*, that by the Oath they had taken, they were bound to Present all Innovations concerning Church matters. And he the said Sir *Robert Berkeley* compelled the Fore-man of the Jury to tell him who gave him any such Information; and thereby knowing it to be one *Henry Brown*, one of the said Grand Jury, he asked the said *Brown*, how he durst meddle with Church matters; who affirming, that in the said Charge, from Mr. Serjeant *Atkins*, the said Jury was charged to do, he the said Sir *Robert Berkeley* told the said *Brown*, He should therefore find Sureties for his good Behaviour; and that he the said Sir *Robert Berkeley* would set a great Fine on his Head, to make him an example to others; and thereupon the said *Brown* offered sufficient Bail; but he the said Sir *Robert Berkeley*, being incensed against him, refused the said Bail, and committed the said *Brown* to Prison, where he lay in Irons till the next morning, and used to the said *Brown*, and the rest of the Jurors, many other *reviling and terrifying Speeches*; and said, he knew no Law for the said Presentment; and told the said *Brown*, That he had sinned in the said Presentment: And he compelled the said Grand-Jurors to say, they were sorry for what they had done in that Presentment, and did bid them to trample the said Presentment under their Feet; and caused *Brown* to tear the said Presentment in his sight. And he the said Sir *Robert Berkeley*, when as *John Houland*, and *Ralph Pemberton*, late Mayors of *St. Albans*, came to desire his opinion on several Indictments against *John Brown*, Parson of *St. Albans*, and *Anthony Smith*, Vicar of *St. Peters* in *St. Albans*, at the Quarter Sessions held at the said Town of *St. Albans*, on the 24th of *June* 1639, for the Removal of the Communion-Table out of the

the

the usual place, and not administering the Sacrament according to Law in that case provided: He the said Sir Robert Berkely then told them that such an Indictment was before him at Hertford, and that he quashed the same, and imprisoned the Promoters; by which threatening and reviling Speeches, unjust Actions and Declarations, he so terrified the Jurors in those parts, that they durst not present any Innovations in the Church matters, to their great grief and trouble of their consciences.

And whereas several Indictments were preferred against Matthew Brook, Parson of Yarmouth, by John Ingram and John Carter, for refusing several times to administer the Sacrament of the Lords Supper to them without any lawful cause, at the Assizes held at Norwich in the year 1633, he the said Sir Robert Berkeley, then being one of the Judges of the Assize, proceeded then to the Tryal on the said Indictments: where the matter in issue being, That the said Brooks refused to administer the said Sacrament, because the said Ingram and Carter would not receive Tickets with their Surnames before their Christian names; which was a course never used amongst them, but by the said Brook. And the said Sir Robert Berkeley did then much discourage the said Ingram's Council, and over-rule the Cause for matter of Law, so as the Jury never went from the Bar, but there found for the said Brook: And the said Sir R. Berkeley bound the said Ingram to the good behaviour for the prosecuting the said Indictments, and ordered him to pay costs to the said Brook for wrongfully inditing him. And whereas the said Carter, not expecting the Tryal at the same Assizes he preferred his Indictment, was then absent; whereupon the said Sir Robert Berkeley did cause to be entred upon the said Indictment a *Vacat, quia non sufficiens in lege*, and ordered an Attachment against the said Carter, which said proceedings against the said Ingram and Carter, by the said Sir Robert Berkeley, were contrary to Law and Justice, and to his own Knowledge.

10. That the said Sir Robert Berkeley, being one of the Justices of the Court of Kings-Bench, and duly sworn as aforesaid in Trinity Term 1637, deferred to discharge or bayl Alexander Jennings Prisoner in the Fleet, brought by Habeas Corpus to the Bar of the said Court; the return of his Commitment being, that he was committed by two several Warrants from the Lords of the Council, dated the 5th of November 1636. The first being onely read in Court expressing no cause, the other for not paying Messengers Fees, and until he should bring a Certificate that he had paid his Assessment for Ship-money in the County of Bucks, but remitted him: And in Michaelmas Term after, the said Jennings being brought by another Habeas Corpus before him as aforesaid, and the same returned; yet he the said Sir Robert Berkeley refused to discharge or bayl him, but remitted him. And in Easter Term, after several rules were given for his Majesties Council, to shew cause why the said Jennings should not be bayled, a fourth Rule was made for the said Jennings to let his Majesties Attorney General have notice thereof, and notice was given accordingly; and the said Jennings by another

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Habeas Corpus, brought to the Bar in *Trinity* Term after, and the same return with this addition, of a new Commitment of the 4th of *May*, suggesting the said *Jennings* had used divers scandalous words in derogation and disparagement of his Majesties Government: He the said *Jennings* after several Rules in the end of the said *Trinity* Term, was again remitted to Prison. And he the said Sir *Robert Berkeley* did on the fifth of *June* last, defer to grant His Majesties Writs of *Habeas Corpus* for *William Pargiter* and *Samuel Danvers* Esquires, Prisoners in the Gatehouse, and in the Fleet; and afterwards having granted the said Writ of *Habeas Corpus*, the said *Pargiter* and *Danvers* were on the 18th of *June* last brought to the Bar of the said Court, where the returns of their Commitments were several Warrants from the Lords of the Council not expressing any Cause; yet he the said Sir *Robert Berkeley*, then sitting in the said Court, deferred to bail the said *Pargiter* and *Danvers*, and the 18th of *June* last made a Rule for a new return to be received, which were returned the 25th of *June* last, in *hac verba*.

‘Whereas his Majesty finding that His Subjects of *Scotland* have in *Rebellious* and *Hostile* manner assembled themselves together, and intend not only to shake off their obedience unto His Majesty, but also as enemies to invade and infest this His Kingdom of *England*, to the danger of His Royal Person, &c.

For prevention whereof His Majesty hath by the advice of His Council-board, given special commandment to all the said Lord Lieutenants of the Counties of this Realm, appointed for their *Randezvous* in their several and respective Counties, there to be conducted and drawn together into a Body for this Service. And whereas His Majesty, according to the Laws and Statutes of this Realm and the constant custom of His Predecessors Kings and Queens of this Realm, hath Power for the defence of this Kingdom, and resisting the force of the Enemies thereof, to grant forth Commissions under His Great Seal to such fit persons as he shall make choice of, to array and arm the Subjects of this Kingdom, and to compel those who are of able Bodys and able Estates, to arm themselves; and such as should not be of able bodies, but of ability in Estate, to assess them according to their Estates to contribute towards the Charge of arraying others, being able of body, and not able in Estate to arm themselves; and such Persons as should be contrariant to Commit to Prison, there to remain untill the King should take further order therein.

And whereas the Earl of *Exeter*, by vertue of His Majesties Commission to him directed, for the arraying and arming of a certain number of Persons in the County of *Northampton*, hath assesse *William Pargiter*, being a Man unfit of body for that Service, but being of Estate and Ability to contribute amongst others, to pay the sum of five shillings towards the arraying and arming of others of able bodies, and wanting ability to array and arm themselves.

And

And whereas we have received Information from the said Earl that the said *William Pargiter* hath not only in a wilful disobedient manner refused to pay the said money assessed upon him towards so important a service, to the disturbance and hindrance of the necessary defence of this Kingdom; but also by his ill example hath misled many others; and, as we have just cause to believe, hath practised to seduce others from that ready obedience which they owe, and would otherwise have yielded to His Majesties just Command, for the publick defence of his Person and Kingdom, which we purpose with all convenient speed to enquire further of and examine.

These are therefore to Will and Require you, to take into your custody the persons of the said *William Pargiter* and *Samuel Danvers*, and them safely to keep Prisoners till further order from this Board, or until by due course of Law they shall be delivered; yet he the said Sir *Robert Berkeley* being desired to bail the said *Pargiter* and *Danvers*, remitted them, where they remained Prisoners till the ninth of *November* last, or thereabouts; although the said *Jennings*, *Pargiter* and *Danvers*, on all and every the said returns were clearlyailable by Law; and the Council of the said *Jennings*, *Pargiter* and *Danvers* offered in Court very sufficient Bail. And he the said Sir *Robert Berkeley*, being one of the Justices of the Court of Kings Bench, denied to grant His Majesties Writs of *Habeas Corpus* to very many others His Majesties Subjects, and when he had granted the said Writs of *Habeas Corpus* to very many others His Majesties Subjects, and on the return no cause appeared, or such only as was clearlyailable by Law; yet he remanded them, where they remained Prisoners very long: which said deferring to grant the said Writs of *Habeas Corpus*, and refusals and delaies to discharge Prisoners, or to suffer them to be bailed, contained in this Article, are destructive to the fundamental Laws of this Realm, and contrary to former Resolutions in Parliament, and to the Petition of Right, which said Resolutions and Petitions of Right were well known to him the said Sir *Robert Berkeley*, and were resolved on and enacted when he was the Kings Sergeant at Law, and *Attendant in the Lords House* of Parliament.

II. That whereas there was a Cause depending in the Court-Christian at *Norwich*, between *Samuel Booty* Clerk, and *Collard* for two shillings in the pound, for Tythes for Rents and Houses in *Norwich*, and the said *Collard* moved by His Council in the Court of Kings Bench for a Prohibition to stay proceedings in the Court-Christian at *Norwich*, and delivered into the said Court of Kings Bench his Suggestions, that the said Cause in the said Court-Christian was only for Tythes for Rents of Houses in *Norwich*, which was determinable by the Common-Law only; yet he the said Sir *Robert Berkeley*, being one of the Justices of the said Court of Kings Bench, and sitting in the said Court, deferred to grant a Prohibition to the said Court-Christian in the said cause, although the Council did move in the said Court many several times, and several Terms, for a Prohibition. And he the said Sir *Robert Berkeley* deferred to grant His Majesties Writ of Prohibition to several other Courts, on the motions of divers others

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of His Majesties Subjects, where the same by the Laws of this Realm ought to have been granted, contrary to the Laws of this Realm and his own knowledge.

All which Words, Opinions, and Actions were so spoken and done by him the said Sir *Robert Berkeley* traiterously and wickedly to alienate the hearts of His Majesties liege people from His Majesty, and to set a division betwixt them, and to subvert the Fundamental Laws and Established Government of His Majesties Realm of *England*: for which they do impeach him the said Sir *Robert Berkeley* one of the Justices of the Court of Kings-Bench of High-treason against our Sovereign Lord the King His Crown and Dignity, and of the Misdemeanours abovementioned.

And the said Commons by protestation, saving to themselves only the liberty of exhibiting at any time hereafter any other accusation or impeachment against the said Sir *Robert Berkeley*, and also of replying to the Answer that he the said Sir *Robert Berkeley* shall make to the said Articles, or any of them, or of offering proof of the premises, or any other impeachments or accusations that shall be exhibited by them, as the case shall according to the course of Parliaments require, do pray that the said *Robert Berkeley*, one of the Justices of the Court of Kings Bench, may be put to answer to all and every the premises; and that such Proceedings, Examinations, Trials, Judgements and Executions may be upon every of them had and used as is agreeable to Law and Justice.

The Kings pleasure declared concerning the Surveying and Marking of Iron, and Surveying Woods in the making thereof.

Whereas the Kings most Noble Progenitors and Predecessors, Kings and Queens of this Realm, duly considering the necessary and important use of the Woods and Timber of this Kingdom have taken into their constant care to preserve the same from waste and destruction; and to that end divers good and wholesom Laws and Statutes have been made, nevertheless by a common neglect of the said Laws, and by an unlawful liberty, which many of the Kings Subjects have taken, there hath been a spoil of Timber and Woods in the Kingdom, by converting the same into Coals for the making of Iron; so that it may be feared, that within few years, unless a speedy course be taken to prevent it, there will follow such a want of Wood and Timber, as cannot be supplied by any future providence; and which together with the frequent transportation of Iron and Iron-metal unlawfully, without License, hath already produced a great scarcity of Timber, Wood and Iron: for a remedy whereof, and for restraint of Transportation of Iron, and for Reformation of sundry secret Deceits and Abuses now used and practised in the making of Iron, and in the vent and sale thereof in Bars, by intermingling the worser sort with the better; His Majesty by His Letters Patents under the Great Seal, dated the 14th of *October* last, did erect an Office to be for ever continued, and did thereby appoint *John Cupper* and *Grimbald Pauncefoot* Surveyor or Surveyors of all Iron-works, Furnaces and Forges within *England* and *Wales*, and of all Woods to be used or employed thereat; and for the Surveying and Marking of Iron with divers Stamps and Marks; for the doing whereof they are allowed by the

the said Letters Patents, to have a moderate fee at the time of their Surveying and Marking. And notwithstanding some complaint hath been made of this matter before the King and Council, yet it is thought fit and necessary, that the said Patent be put in execution; and therefore the King doth Command, that no Person whatsoever shall employ any Woods to be converted into Coals for the making of Iron, or shall transport any Iron or Iron Metal. And that no Iron-Master, Owner or Farmer of Iron-works shall put to sale any sort of Iron, nor shall any Merchant, Trader or Dealer in Iron remove the same from the Iron-Works, Furnaces, or Forges before the said Iron shall be first Surveyed and Marked by the King's Officers, or their Deputies. And all Persons are required to permit the said Officers, or their Deputies, to enter into the Iron-Works, Warehouses, &c. to Survey and Mark the said Iron. The King doth further declare, that his said Officers, or their Deputies, may enter into any Woods, or Wood-grounds, wherein any Woods are, or shall be felled, to be converted into Coals, for the Making of Iron, or Iron-Metal, and there to Survey the same.

13 Caroli.

Titles

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Titles of Proclamations for the Year 1637.

By the King,

Westminster,
March 26.

A Proclamation to restrain the making or having *Keys for His Majesties Houses, Gardens, or Parks*, without especial Warrant.

Whitehall,
April 30.

A Proclamation against the disorderly *Transporting His Majesties Subjects to the Plantations* within the Parts of *America*.

Whitehall,
May 14.

A Proclamation for calling in a Book Intituled an *Introduction to a Devout Life*, and that the same be *publicly burnt*.

Whitehall,
May 15.

A Proclamation touching the Manufactures of *Playing-Cards*, and *Dice*.

Greenwich,
July 9.

A Proclamation touching *Common Malsters and Brewers*.

Oatlands,
July 16.

A Proclamation against *false packing of Butter*, and other deceits and misdemeanours concerning *Butter-Casks*, discovered since the publishing of a former Proclamation.

Oatlands,
July 23.

A Proclamation for putting off this next *Bartholomew-Fair* in *Smithfield*, and our *Lady-Fair* in *Southwark*.

Oatlands,
July 29.

A Proclamation for the Surveying, and making of *Iron*, and Survey of *Woods* to be used in the making thereof.

Lindhurst,
August 18.

A Proclamation declaring, that the Proceedings of His Majesties *Ecclesiastical Courts* and Ministers, are according to the Laws of the Realm.

Lindhurst,
August 21.

A Proclamation for putting off this next *Sturbridge-Fair*.

Oatlands,
September 3.

A Proclamation for putting off the Healing of the Disease called the *King's-Evil* at *Michaelmas Term*.

Whitehall,
November 19.

A Proclamation for Restraining the use of *Wine-Casks*, by *Brewers*, and *Sellers of Beer and Ale*.

Westminster,
November 22.

A Proclamation concerning the *Tradesmen and Artificers within three Miles of the City of London*, not yet admitted in the *New-Corporation*.

Whitehall,
December 20.

A Proclamation restraining the withdrawing His Majesties Subjects from the Church of *England*, and giving scandal in *resorting to Masses*.

A Proclamation touching the Corporation of *Soap-makers* of *London*.

13 *Caroli.*
Whitehall,
December 28.

A Proclamation declaring the feasonable Times when Warrants for *Venison* in the King's Forests, Chaces, or Parks, are to be served.

Whitehall,
January 17.

A Proclamation concerning certain kinds for the sweet and speedy *drying of Malt* and Hops, at a small Charge.

Whitehall,
February 8.

A Proclamation concerning the carrying, and *re-carrying of Letters*, as well within His Majesties Realms and Dominions, as into, and from *Foreign Parts*.

Whitehall,
February 11.

A Proclamation for the *Pricing of Wines*.

Whitehall,
February 11.

A Proclamation concerning our *Iron-Oar, Iron-Mines*, and *Cinders* within Our Forest of *Dean*.

Newmarket,
March 4.

A Proclamation concerning *Tobacco*.

Whitehall,
March 14.

Historical

Historical Collections

For the Year 1638.

The Arch-Bishop of Canterbury's Diary.

April 29.

THe Tumults in *Scotland* about the *Service Book* offered to be brought in, began *July 23. 1637.* and continued increasing by fits, and hath now brought that Kingdom in danger. No question but there is a great concurrence between them and the Puritan Party here in *England*; there was great aim there to destroy me in the King's Opinion, &c.

May 26. Saturday, James Lord Marquess *Hamilton* set forth, as the King's Commissioner, to appease the Tumults in *Scotland*. God prosper him for God and the King.

June, My Visitation then began of *Merton College* in *Oxford*, by my Visitors, was adjourned to my own hearing, again upon *October 2.*

October 2, 3, 4. I sat upon this Business these three days, and adjourned it till *July 1. Inter horas primam & tertiam, Lambeth.* The Warden appeared very foul.

October 19. News was brought to us, as we sat in the *Star-Chamber*, that the Queen-Mother of *France* was landed at *Harwich*; many and great apprehensions upon this Business.

October 31. The Queen came into *London*, and so to *St. James's*.

November 13. The Agreement between me and *A. S. &c.*

November 21. Wednesday, The General Assembly in *Scotland* began to sit.

November 29. Thursday; The Proclamation issued out for dissolving of the Great Assembly in *Scotland*, under pain of *Treason*.

December 20. They sat notwithstanding, and made many strange Acts till *December 20*, which was *Thursday*, and then they rose; but have indicted another Assembly against *July* next.

February 10. My Book against *Fisher* the Jesuit was Printed, and this day, being *Sunday*, I delivered a Copy to his Majesty.

Tuesday, Feb. 21. That Night I dreamed that *K. C.* was to be married to a Minister's Widow, and that I was called upon to do it: No *Service Book* could be found; and in my own Book, which I had, I could not find the Order for Marriage.

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At Whitehall, April 6.

Present,

The King's most Excellent Majesty.

Lord Arch-bishop of *Canterbury*,
 Lord *Keeper*,
 Lord *Treasurer*,
 Lord *Privy-Seal*,
 Lord Duke of *Lenox*,
 Earl *Marshal*,
 Earl of *Northumberland*,

Earl of *Salisbury*,
 Lord *Cottington*,
 Lord *Neuburgh*,
 Mr. *Treasurer*,
 Mr. *Vice-Chamberlain*,
 Mr. *Secretary Cook*,
 Mr. *Secretary Windebanck*.

New-England.

His Majesty and the Board taking into consideration the frequent resort to *New-England*, of divers Persons ill-affected to the Religion established in the Church of *England*, and to the good and peaceable Government of this State. However, upon the humble Petition of the Merchants, Passengers, and Owners of Ships now bound for *New-England*, and upon the Reasons by them represented to the Board, His Majesty was graciously pleased at this time to free them from a late Restraint, and to set them at liberty to proceed on in their intended Voyage. Nevertheless His Majesty well knowing the factious disposition of the People (for a great part of them) in that Plantation, and how unfit and unworthy they are of any Support or Countenance from hence, in respect of the great Disorders and want of Government amongst them; whereof sundry and great Complaints have been presented to the Board, and made appear to be true, by those that being well-affected, both for Religion and Government, have suffered much loss in their Estates by the unruly Factious Party, did think fit and Order, That Mr. Attorney General shall forthwith draw up a Proclamation, expressing his Majesty's Royal Pleasure to prohibit all Merchants, Masters, and Owners of Ships from henceforth to set forth any Ship, or Ships, with Passengers for *New-England*, till they first obtained special Licence on that behalf, from such of the Lords of His Majesty's most Honourable Privy-Council, as are appointed for the Business of Foreign Plantations by special Commission.

April 15.

Ministers and
 Tythes in ad-
 jacent Parishes
 to London.

Whereas an humble Petition was this day read at the Board unto the King's most excellent Majesty in the Names of the Parsons, Vicars, and Curats of the adjacent Places to the City of *London*, namely, of *St. Margarets Westminster*, *St. Clements Danes*, *St. Giles in the Fields*, *St. James Clarkenwel*, *St. Leonard Shoreditch*, *St. Martins in the Fields*, *St. Mary Whitechappel*, *Savoy Parish*, *St. George*, *St. Thomas*, and *St. Mary Newington*, in *Southwark*, *St. Magdalen Bermondsey*, *St. Saviours Southwark*, *St. Kath. Tower*, *Lambeth*, and *St. Olaves in Southwark*; Shewing unto His Majesty the great increase of New-Buildings of late Years, erected in the Petitioners
 several

several Parishes; and that the number of People is now so much augmented, that the said Livings are for the present incompetent and in no proportion meet for the discharge of so great Cures, some of the Petitioners receiving no Tithe at all, the rest far short of that which of right ought to be paid unto them; that great numbers of Parishioners in the aforesaid Parishes, now living in Houses, lately built upon that Ground which heretofore hath paid Tithes and other Rights (to the said several Churches) pay now to the Petitioners, either nothing, or but 2 d. at *Easter*, and 3 d. at the most, besides the Obventions of small value; and therefore humbly besought his Majesty, amidst His Gracious Thoughts towards the Clergy of *London*, to take the Case of the Parishioners into His Princely Care, and to take some course for the better maintenance of the Petitioners, and for the establishing of their Right. And whereas by former Order hath the said Parsons, Vicars, and Curats, and also the Church-Wardens, and divers of the principal Parishioners of the said Parishes appeared this day before His Majesty and their Lordships, in whole hearing and presence, the said Petition being again read, they the said Clergy, and Church-Wardens, and Parishioners, were demanded by His Majesty whether they were ready and willing to submit to His Majesty's Pleasure and Determination in the things which were moved and desired in the said Petition; whereunto the said Clergy readily assented, but the aforesaid Church-Wardens and Parishioners alleadged themselves to be no way authorized thereunto. It was thereupon by His Majesty ordered, That the said Clergy should forthwith prepare their Submissions respectively. And that the Church-Wardens and Vestry-Men of the aforesaid several Parishes, should with like diligence and expedition assemble their Parishioners; and communicating the Petition of the said Clergy unto them, withall acquaint them with His Majesty's Pleasure touching their Submission; and they the Parishioners by Writing, signed with their hands, fully to authorize their several Vestry-Men, or Church-Wardens, to return unto His Majesty their Answer therein. And that both the said Clergy, as also the Vestry-Men, or Church-Wardens of each Parish so authorized, fail not to give their attendance, with their said Submissions and Authorizations, upon *Sunday* the 6th of *May* next. Whereof all Parties are required hereby to take notice, and to govern themselves accordingly.

May the 4th.

This day upon consideration, as well of the Petition of the Parishioners of *St. Gregories*, as of certain Articles propounded by the Parishioners of *St. Gregory's* aforesaid, to the Parishioners of *Christs-Church*, and of others propounded by the Parishioners of *Christs-Church* to those of *St. Gregory's*, concerning the accommodating the Parishioners of *St. Gregory's* in the West end of *Christ-Church*, for the exercising of Divine Service there. It was by the Board ordered,

That the Parishioners of *St. Gregory's* shall place no Pews in *Christ-Church*, but such as shall be moveable, to the end that Burials may not be hindered, when those of *Christ-Church* have occasion to bury there.

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‘ That for the said Parishioners of *St. Gregory's* coming in and going, they shall make use of the West Doors only.

‘ That they shall depart and leave the said West end of the Church at the Feast of *St. John Baptist*, which shall be in the Year of Our Lord God 1641.

‘ That those of *St. Gregory's* shall leave the Church as they found it, and as well repaired in all respects, ordinary use and wearing excepted.

‘ That those of *St. Gregory's* shall have liberty to bury ten of their Parishioners every Year (if there be occasion) within the West end of *Christ-Church*, for that they have no other place where to bury their Dead.

‘ That the Parishioners of *Christ-Church* and *St. Gregory's* shall from time to time submit themselves to the Arbitrement and Commands of the Lord Bishop of *London* and his Successors for the composing of all Differences which shall arise between the said Parishioners.

‘ And lastly; Their Lordships do hereby order and require, That the Church-Wardens, Common-Council-Men, and Sidemen, as well of the Parish of *St. Gregory's*, as of that of *Christ-Church* shall subscribe to the performance of all the aforesaid Articles; and that such their Subscription, together with this their Lordships Order, shall oblige respectively both the one and the other side to the due performance of the same, and every part thereof. And upon this Subscription, which is forthwith required, those of *Christ-Church* shall presently deliver the Keys of that part of the Church to those of *St. Gregory's*. Hereof as well the Parishioners of *Christ-Church*, as those of *St. Gregory's*, are to take notice, and conform themselves accordingly.

At the Court at *Whitehall*, May 6.

Present,

The King's most Excellent Majesty.

Lord Arch-Bp. of *Canterbury*,
Lord *Keeper*,
Lord *Treasurer*,
Lord *Privy-Seal*,
Lord Duke of *Lenox*,
Lord Marquess *Hamilton*,
Earl *Marshal*,
Lord *Great Chamberlain*,
Lord *Chamberlain*,
Earl of *Dorset*,

Earl of *Holland*,
Earl of *Danby*,
Earl of *Morton*,
Earl of *Roxburgh*,
Lord *Cottington*,
Mr. *Treasurer*,
Mr. *Comptroller*,
Mr. *Vice Chamberlain*,
Mr. *Secretary Cook*.
; Mr. *Secretary Windebanck*.

A further Order concerning
Tithes as to the
Out-Parishes.

‘ **T** His day Information was given to His Majesty and the Board, That where His Majesty's Order of the of *April* last, touching the Submission of sixteen of the Out-Parishes in the Suburbs of *London*, and the Liberties of *Westminster*, unto His Majesty and the Board, concerning the *Increase of Maintenance to their Ministers*, in such manner as other Parishes within the City of *London* had done, was

was published within the Parish Church of *St. Giles in the Fields*, upon *Ascension* day last past; That one *George Winder*, qualifying himself a Messenger Extraordinary of His Majesty's Chamber, did, in the midst of a great Assembly of the Parishioners, who then seemed inclinable to return unto His Majesty a modest and respective Answer to His Pleasure signified unto them, did in a most uncivil and insolent manner affront Mr. Dr. *Heywood*, one of His Majesty's Chaplains in Ordinary, Parson of the said Parish, and *Lawrence Whitaker* Esq; one of His Majesty's Justices of the Peace, an Inhabitant in the said Parish, when they delivered the Points of the said Order to the Assembly, and perswaded them to submission therein required, whereby, and by his peremptory carriage, and affirming of untruths, the Votes of the said Parishioners were diverted from giving such satisfaction to His Majesty's Propositions as were expected. It was therefore ordered by His Majesty and the Board, That the Lord Chamberlain of His Majesty's Household should be prayed and required to call the said *George Winder* before him, and examine him touching the said Offence; and if he found it to be as was informed, that he should then take such order for his Punishment, either by taking from him the countenance of his pretended Service, or otherwise, as his Lordship shall find his Offence to deserve.

14 Caroli.

August 19.

Whereas it is observed, That such Ministers who are unconformable to the Discipline and Ceremonies of the Church here, have and do frequently transport themselves to the *Summer-Islands*, and other his Majesty's Plantations abroad, where they take liberty to nourish and preserve their Factionous and Schismatical Humours, to the seducing and abuse of his Majesty's Subjects, and the hindrance of that good Conformity and Unity in the Church, which His Majesty is careful and desirous to establish throughout his Dominions. We are therefore in His Majesty's Name, and by His express Command, hereby to pray and require your * Lordship to take a present and strict Order, That no Clergy-Men be from hence-forth suffered to go over into the *Summer-Islands*, but such only as shall have approbation in that behalf, from Our very good Lords, the Lord Arch-Bishop of *Canterbury* his Grace, and the Lord Bishop of *London*. And that for all such of them as are already gone thither, without such Approbation, that you cause them forthwith to be remanded back hither. And so expecting a good account hereof from your Lordship, we bid you very heartily farewell.

Unconformable Ministers.

* The Lord Admiral.

Instructions for Captain William Legg, concerning the Ordnance, Arms, and Provisions sent to Kingston upon Hull.

You are, with the Assistance and Attestation of the Mayor of the said Town for the time being, to take a particular view and tale of the respective Provisions that shall be there landed, and which are committed, by the Office of the Ordnance, to *John Spencer*, one of His Majesty's Gunners, and the several Masters of the Ships wherein they were sent, comparing the Indentures with the Charge of the

Arms and Ammunition at Hull.

An. 1638. the Indentures, and accordingly give a Discharge to such as transported them, and not otherwise.

You are also, with the like Assistance and Attestation, to take a particular view and tale of the respective Provisions, being 800 Musquets compleat, and 2000 Pikes, and all other Provisions which are to be brought out of the *Low-Countries* by Sir *Jacob Ashley*; and you are to indent, as well for what you receive from the *Low-Countries*, as for what you receive out of the Ships from the *Tower*, and to send your Indenture for all the said Provisions into the Office of the Ordnance.

You shall take care that all the said Provisions be lodged in a convenient and safe Store-house, and in such order and decency, that the same may not only be freed from all danger and detriment, but be ready upon all occasions; to which purpose you are to keep particular Memorials, or Lists, of the Place and Order wherein each nature of the Provisions committed to the charge is placed.

You, with the assistance of the Mayor, are to sell Powder, Match, and Musquet-shot only, (and no other Provisions in your Charge at *Hull*) to such Persons of the said Towns or Counties thereabouts, as shall bring Certificate from one or more of the Deputy-Lieutenants of the said Counties, or of the Mayor, and two other Magistrates of any Corporation respectively, That the said Buyers are fit and responsible Persons to be furnished with such Munitions.

You are to keep a particular account of the Sale of all, or any the said Provisions, expressing therein to whom, at what time, and at what rates the same are sold; and the Accompt to be returned to the Office of the Ordnance, and the hands of your self and the Mayor of the said place, at which time the said Certificates of the Deputy-Lieutenants, and the Magistrates, is likewise to be delivered into the Office, and an acknowledgment under the hands of the Party or Parties that shall buy any of the said Provisions, what he hath received, and what he hath paid.

When any considerable proportion of Powder, Match or Musquet-shot shall be sold, you are to give such timely notice to the Master of the Ordnance, that supply accordingly may be returned unto you.

The Monies proceeding from such Sales, is to be from time to time delivered to such Persons as the Lord Treasurer shall appoint to receive the same from you.

As for the issuing or disposing of any other part of the said Provisions committed to your trust, besides Powder, Match, and Musquet-shot, you are to receive further Orders and Instructions, either from his Majesty, the Lords of the Council, or Master of the Ordnance.

You having received your Munition from hence, and those Arms from *Holland*, and disposed of them in such safety as aforesaid, shall repair to *Newcastle* with the Engineer; and if Sir *Jacob Ashley* shall not be come to *Hull*, you shall notwithstanding go to *Newcastle*, and dispatch there according to your further Instructions concerning that Town, leaving Mr. *Leonard Pinkney*, the Bearer hereof, to attend Sir *Jacob Ashley's* arrival, and to receive the Arms by him brought thither, and to dispose of them as you shall direct before you go.

During

‘During which time of your absence at *Newcastle*, you shall de-
‘pute such as you shall think fit; who with the attestation of the
‘Mayor, according to the former Instructions, shall issue and make
‘sale of such Powder, Match, and Musquet-shot as is ordered and
‘warranted as aforesaid until your return.

‘You are likewise to take knowledge, That upon signification of
‘your Letter, his Majesty is pleased, for the better encouragement
‘of the Inhabitants, to fortify the Town, to lend them six Demi-
‘Culverings of Iron, with their Field-Carriages, mounted upon un-
‘shod Wheels, with Ladles and Spunges belonging to them; they
‘indenting for the same with the Master and Office of the Ordnance,
‘according to course.

‘You are further to certify the Master of the Ordnance, what
‘stores of Ordnance and other Munition have bin formerly in charge
‘at *Hull*.

‘And lastly; In regard that neither the Provisions that shall come
‘from the *Tower* to *Hull*, nor those out of the *Low-Countries*, can be
‘stowed without Mony, Men, and Labour, you are to advise with
‘the Mayor touching the Hire usually given to Labourers there; and
‘those you imploy, to give them Wages accordingly; and the same
‘course you shall take at *Newcastle*. And to enable you thereunto,
‘you shall receive 300 *l.* by *John Spencer*; whereof you are to render
‘an Accompt of your several Disbursements, subscribed by the several
‘Persons whom you imploy, attested by the respective Mayors of *Hull*
‘and *Newcastle*. As also out of the said Monies, to pay to *Thomas*
‘*Heath* such Monies as he shall necessarily disburse for his Majesty’s
‘Service in stowing or issuing of the Munition or Arms upon Certi-
‘ficate thereof, subscribed by the Magistrates of the Town.

The Prices of Powder, Match, and Arms to be sold, viz.

Powder	18 d. the pound.
Match	1 l. 10 s. the C. Weight.
Musquets	18 s. 6 d. the piece.
Bandaleers	3 s. the piece.
Rests for Musquets	10 d. the piece.
Musquet-shot	18 s. the C. Weight.
Long Pikes	3 s. 2 d. the piece.
Corsets, consisting of Back, Breast, Gorget and Head-piece	22 s. the piece.
Swords	7 s. 6 d. the piece.
Girdles and Hangers	2 s. the piece.

September 30.

‘**W**Hereas his Majesty hath bin graciously pleased of his Princely
‘Care and Providence for the preservation of the publick
‘Peace and Safety of his People, and for the better strengthening of
‘the *Northern Parts* of this his Majesty’s Kingdom, to send to the
‘Towns of *Kingston upon Hull* and *Newcastle*, Arms, Powder, Shot,
‘Match, Bullet, and other Munition; to the end that such of his
‘Majesty’s Subjects of this Kingdom as are desirous to furnish them-
‘selves with such Provisions for their own proper use, or for the use
‘of

Letters to the
L. Lieutenants
of Northum-
berland, &c.

An. 1638.

‘of Towns or Places in this Kingdom, may for their Mony be there-
 ‘with supplied. Whereof We have thought good hereby to give
 ‘your Lordship notice, That your Lordship let that County, and the
 ‘Corporations in the same, know his Majesty’s Care of their Good,
 ‘and that you may make further use of it for the advancement of his
 ‘Majesty’s Service as there shall be occasion. And so we bid, &c.

Names of the Lord Lieutenants.

Counties.	Ld. Lieutenants.	Counties.	Ld. Lieutenants.
Nottingham } Derby ——— }	Earl of Newcastle.	Northumber- land ——— }	Earl of Arundel and Surrey.
York ———	Lord V. Wentworth.	Cumberland }	E. of Northumberland.
Lancaster ———	Earl of Derby.	Earl of Cumberland.	
Chester ———	Lord Strange.	Earl of Suffolk.	
Stafford ———	Earl of Essex.	Westmorland }	Lord Maltravers.
		Lord Clifford.	
		Duresm ———	Bishop of Duresm.

The Qu. Mo-
 ther of France
 comes to Eng-
 land.

October the last, *Mary de Medicis*, the Queen Mother of *France*, came to *London*, and so to *St. James’s*. The People were generally Malecontent at her coming, and wish’d her farther off; for they did not like her Train and Followers, which had often been observed to bring the Sword or Pestilence, so that she was beheld as some Meteor of ill signification. Nor was one of these Calamities thought more the effect of her Fortune than Inclination, for her restless and uncessant Spirit was prone to embroil all wheresoever she came. Her impetuous banding and combining with *Monseigneur* the Duke of *Orleans*, and the improsperity of that enterprize, made *France* too hot for her, and drave her, in the Year 1631, to *Brussels*, where the Cardinal *D’Infanta* treated her a while with most honourable Caresses and Respects; but *Flanders*, which at first seemed her Place of Refuge, became afterwards her greatest Danger, she being (as her own *Manifesto* sets forth) so hunted and pursued with continual Imprecations and Curses there, as she began to fear some violence to her Person; so that quitting that Country, she betook her self to the Protection of the Prince of *Orange* 1637. Long she staid not there, but having received an invitation from the Queen her Daughter, resorted hither.

November 12.

A Hearing ap-
 pointed of di-
 vers Busineses
 betwixt the
 Ld. Deputy
 and Council of
 Ireland, and the
 Ld. Chancellor.

‘U Pon the motion of the Lord Vicount *Wentworth*, Lord Deputy
 ‘General for His Majesty in the Kingdom of *Ireland*; it was this
 ‘day ordered by his Majesty, with the Advice of the Board, That on
 ‘*Tuesday* sevensnight next, at two of the Clock in the Afternoon, at
 ‘the Council Chamber in *Whitehall*, being the 12th of this present
 ‘Month of *November*, the Cause concerning the Charge sent unto his
 ‘Majesty by the Lord Deputy and Council of State of the Kingdom
 ‘of *Ireland*, against the Lord Chancellor of *Ireland*, for divers undue
 ‘Proceedings and Misdemeanours in that Kingdom: As also the Cause
 ‘of Appeal by the Lord Chancellor of *Ireland*, against a Decree made
 ‘by the said Lord Deputy and his Majesty’s Council of that Kingdom,
 ‘and

and a Review thereof desired by the said Lord Chancellor shall be heard: Whereof all the Parties concerned therein are to take notice, and prepare themselves with their Counsel learned, and to attend accordingly. And in regard the Charge against the said Lord Chancellor doth consist of many several parts: To the end his Lordship may be better prepared for such things as shall come in debate at the time aforesaid (having reference to the said Charge) he is to take notice, that there will be then first insisted upon these Particulars following; viz. The Lord Chancellor delivering the *Negative Voice* of the Nobility against the Contribution for the Army. *Article* against the Lord Chancellor in the Cause between *Mary Fitzgerald*, Plaintiff, and *John Fitzgerald*, Defendant. Misdemeanors in *Jacob's Cause*. Lord Chancellor's Misdemeanors and Irregularities in the Cause between *Dr. Medcalf*, Plaintiff, and *George Harpool* and others, Defendants.

14 Caroli.

Novemb. 3.

Whereas upon a late Examination of the Account of the Ship-money taken by Us in the presence of his Majesty, to be levied upon the Writs issued in the Year 1637, notwithstanding the continual calling upon you, the Sheriff of the last Year, by this Board, by his Majesty's special Command, it appeareth there is yet left an Arrear of We have therefore thought fit hereby, according to his Majesty's special Command, to require you the Sheriff for the last Year, with all possible speed, upon pain of his Majesty's displeasure, and a severe proceeding to be had against you, to pay unto Sir *William Russel*, Knight, Treasurer of the Navy, so much of the said Arrear as you have already collected and not paid in, and to assess, levy and collect by Distress or otherwise, according to the tenor of the said Writ issued in the Year 1637, the residue of the said Arrear remaining unassessed, unlevied or uncollected; and to pay in the same with all possible speed, as aforesaid: For which purpose We do require and authorize you the present Sheriff, to give Warrant and Authority to you the Sheriff of the last Year, for the assessing, levying, and collecting as aforesaid, of the said Arrears; as also to give like Warrant and Authority to such other meet Persons as you the Sheriff for the last Year shall present and nominate unto you the present *High-Sheriff*, either jointly or severally, to be imployed in this Service by you the *Sheriff* of the last Year, from whom only his Majesty doth expect an Account thereof for your own time. Of performance of all which, you, or either of you, may not fail, as you tender the good Opinion of his Majesty and this Board, at your perils. And you the *Sheriff* for the last Year are to collect and pay in all the said Arrears to Sir *William Russel* by the beginning of *Candlemass Term*: Or else you are to attend his Majesty and the Board the second Sunday of that Term, to give an Account why the same is not levied and paid in. And so, &c. Dated ult. Novemb. 1638.

To pay Ship-money in Arrears.

Decemb. 5. 1638.

William Coke, Esq; one of his Majesty's Justices of Peace for the County of *Nottingham*, having by his under-writing of 25 l. for Composition for *Knighthood* (being the Rate appointed for

Knighthood.

An. 1638.



Persons of Quality) made himself liable in the payment thereof, and is returned as Debtor for the same. Forasmuch as We are informed by the Commissioners imployed in that Service, that he hath done his Majesty very good Service upon several occasions, We therefore think it fit that the said Sum of 25 *l.* be reduced to 5 *l.* And do accordingly will and require you, that the said Mr. Coke, having paid the said Sum of 5 *l.* be discharged of the *overplus* of the said Fine returned upon him *insuper* upon the Account of Sir Jervis Clifton, Knight and Baronet, Collector of the said Monies for the Fines of *Knighthood* in the said County of Nottingham. And for so doing this shall be your Warrant.

December 16. 1638.

To find Horse
and Arms.

THis day, his Majesty being present in Council, was pleased in his Provident and Princely Care for the Safety and Defence of the Realm, to take into Consideration amongst other Particulars, the making compleat, and increasing all that conveniently may be, the number of Horse in every County, as a most important part of the Strength of the Kingdom. And for the better advancing and putting in execution thereof, it was taken into deliberation what proportion of Lands and Estate within the County ought to be chargeable with the finding of Horse; and upon mature advice thought fit and resolved, That every person having Lands of Inheritance of the clear yearly value of two hundred or three hundred pounds per Ann. within the County, or other Estate equivalent thereunto, should be chargeable with a Horse, viz. two hundred pounds per Annum with a Light Horse, and three hundred pounds per Annum with a Lance, at the discretion of the Lord-Lieutenant of that County for the time being. And whereas it was now likewise taken into consideration that the sparing of some Persons doth open a gap to excuses and backwardness in others; to the weakning both of Horse and Foot. And for that by Letters under his Majesty's Roial Signature, bearing date 24th day of May, And by a Minute of Letters from the Board, sent together with his Majesty's said Letters to the Lords Lieutenants of every County, it appeared that his Majesty's pleasure was then declared and signified to be, That no Man's Purse should be spared in these Services, upon any Excuse or Pretence whatsoever; And that his own Servants, and those that attend him in Court, should be priviledged only, and spared from personal and actual Duries, but their Lands and Revenues to be as liable as any others to the Charge of finding Arms in those Counties where the same do lie. It was therefore (according to his Majesty's expresse will and pleasure now again Declared) Resolved and Ordered, That the Direction and Command given on that behalf, by his Majesty's former Letters, should be pursued and put in Execution by the Lords Lieutenants of every County. And that the like Rule should be held and observed as well concerning the Persons as the Lands and Revenues, of all and every the Ministers and Officers of any his Majesty's Courts of Justice, or any others that pretend Privilege by reason of any relation to his Majesty's Service, or dependance upon any great Officer in respect of his Place and Office, which however it was not so particularly expressed in his Majesty's former Letters, yet (as his Majesty was now pleased to observe and declare) the same was

'neces-

‘ necessarily implied ; for that if *none of his own Servants* were to be
 ‘ privileged and exempted in their Lands and Estates from being
 ‘ chargeable with *Arms*, much less was it intended that the *Ministers*
 ‘ and *Officers* of any of his *Courts of Justice*, or any other pretending
 ‘ *Privilege* by his Majesty’s Service, or by dependence upon any great
 ‘ Officers in respect of their Offices, should in a like case have any great
 ‘ Privilege or exemption allowed them. Hereof a Copy is to be
 ‘ forthwith sent to the Lord Lieutenant of every County.

14 Caroli.

The Charge of Sir *William Russel*, and Sir *Henry Vane*, Knights, Treasurers of his Majesty’s Navy, touching the Moneys by them received of the several Sheriffs hereafter named, and by them levied by virtue of his Majesty’s *Writs*, issued out of the high Court of *Chancery* in the 14th Year of his Majesty’s Reign, for and towards the setting forth and furnishing of divers Ships for the defence of this Realm, and paid over by them the said Sheriffs unto the said Sir *William Russel*, and Sir *Henry Vane*, by virtue of a special *Commission* under the great Seal ; Dated the day of _____ in the said 14th Year of his Majesty’s Reign, *Annoque Dom’* 1638. And by Order from the Board to be by them expended and disbursed in and about the said Service.

Sir William
Russel’s Ac-
compt of Mo-
neys received
upon the Ship-
money Writs
which issued
out An. 1637.

Imprimis, the said Sir *William Russel*, and Sir *Henry Vane*, are charged with the sum of five thousand and five hundred pounds, by them received of the Sheriffs of the Counties of *Berks*, *Oxford*, *Buckingham*, and *Bedford*, as followeth, *viz.* With one thousand four hundred and fifty pounds received of the Sheriff of the County of *Berks*. With one thousand and three hundred pounds receiv’d of the Sheriff of the County of *Oxford*; with one thousand six hundred and fifty pounds received of the Sheriff of the County of *Buckingham*; and with _____ received of the Sheriff of the County of *Bedford*, for and towards the setting forth and furnishing of one Ship of 450 Tuns, for the service aforesaid.

Item, The sum of four thousand eight hundred and fifty pounds by them received of the Sheriffs of the several Counties of *Cornwal* and *Devon*, for and towards the setting forth and furnishing of one Ship of 400 Tuns, for the service aforesaid.

Item, With the sum of four thousand eight hundred pounds, by them received of the Sheriffs of the Counties of *Dorset* and *Somerset*, and of the Mayor and Sheriffs of the City of *Bristol*, for and towards the setting forth and furnishing of one Ship of 400 Tuns, for the service aforesaid.

Item, With the sum of four thousand two hundred pounds, by them received of the Sheriffs of the Counties of *Glocester* and *Wilts*, for and towards the setting forth and furnishing of one Ship of 350 Tuns for the service aforesaid.

Item, With the sum of five thousand pounds, by them received of the Sheriffs of the Counties of *Southampton*, *Surry*, *Suffex*, and *Cinque-Ports* there, for and towards the setting forth and furnishing of one Ship of 400 Tuns, for the service aforesaid.

Item, With the sum of four thousand five hundred pounds, by them received of the Sheriffs of the several Counties of *Cambridg*, *Huntingdon*, and *Northampton*, for and towards the setting forth and furnishing of one Ship of 350 Tuns, for the service aforesaid.

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Item, With the sum of four thousand nine hundred pounds, by them received of the Sheriffs of the several Counties of *Chester, Derby, Stafford, and Lancaster*, for and towards the setting forth and furnishing of one Ship of 400 Tuns, for the service aforesaid.

Item, With the sum of two thousand pounds, by them received of the Sheriffs of the Counties of *Cumberland, Westmorland, Northumberland, and Duresme*, for and towards the setting forth and furnishing of one Ship of 150 Tuns, for the service aforesaid.

Item, With the sum of five thousand and five hundred pounds, by them received of the Sheriffs of the Counties of *Essex and Kent*, and *Cinque-Ports* there, for and towards the setting forth and furnishing of one Ship of 450 Tuns, for the service aforesaid.

Item, With the sum of five thousand five hundred pounds, by them received of the Sheriffs of the several Counties of *Suffolk and Norfolk*, for and towards the setting forth and furnishing of one Ship of 450 Tuns, for the service aforesaid.

Item, With the sum of three thousand three hundred pounds, by them received of the Sheriffs of the several Counties of *Hertford and Middlesex*, for and towards the setting forth and furnishing of one Ship of 250 Tuns, for the service aforesaid.

Item, With the sum of four thousand nine hundred pounds, by them received of the Sheriffs of the several Counties of *Lincoln, Rutland and Leiceſter*, for and towards the setting forth and furnishing of one Ship of 400 Tuns, for the service aforesaid.

Item, With the sum of three thousand five hundred pounds, by them received of the Sheriffs of the several Counties of *Monmouth, Hereford, and Salop*, for and towards the setting forth and furnishing of one Ship of 300 Tuns, for the service aforesaid.

Item, With the sum of five thousand five hundred pounds, by them received of the Sheriffs of the several Counties of *York and Nottingham*, for and towards the setting out and furnishing of one Ship of 450 Tuns, for the service aforesaid.

Item, With the sum of two thousand seven hundred pounds, by them received of the Sheriffs of the Counties of *Warwick and Worcester*, for and towards the setting out and furnishing one Ship of 200 Tuns, for the service aforesaid.

Item, The said Sir *William Russel* is charged with the sum of five thousand pounds, by him received of the Sheriff of the County of *Dorset*, for and towards the setting out and furnishing one Ship of 500 Tuns, for the service aforesaid.

Item, With the sum of two thousand pounds, by him received of the Sheriff of the County of *Duresme*, for and towards the setting out and furnishing one Ship of 200 Tuns, for the service aforesaid.

Item, With the sum of eight thousand pounds, by him received of the Sheriff of the County of *Essex*, for and towards the setting out and furnishing one Ship of 800 Tuns, for the service aforesaid.

Item, With the sum of five thousand five hundred pounds, by him received of the Sheriff of the County of *Gloceſter*, for and towards the setting out and furnishing one Ship of 550 Tuns, for the Service aforesaid.

Item, With the sum of six thousand pounds, by him received of the Sheriff of the County of *Southampton*, for and towards the setting out and furnishing one Ship of 600 Tuns, for the service aforesaid.

Item,

Item, With the sum of three thousand five hundred pounds, by him received of the Sheriff of the County of *Hereford*, for and towards the setting forth and furnishing of one Ship of 350 Tuns, for the Service aforesaid. 14 *Caroli.*

Item, With the sum of four thousand pounds, by him received of the Sheriff of the County of *Hertford*, for and towards the setting forth and furnishing of one Ship of 400 Tuns, for the Service aforesaid.

Item, With the sum of two thousand pounds, by him received of the Sheriff of the County of *Huntington*, for and towards the setting forth and furnishing of one Ship of two hundred Tuns, for the Service aforesaid.

Item, With the sum of eight thousand pounds, by him received of the Sheriff of the County of *Kent*, and *Cinque-Ports* in *Kent*, for and towards the setting forth and furnishing of one Ship of 800 Tuns, for the Service aforesaid.

Item, With the sum of four thousand pounds, by him received of the Sheriff of the County of *Lancaster*, for and towards the setting forth and furnishing one Ship of 400 Tuns, for the Service aforesaid.

Item, With the sum of four thousand five hundred pounds, by him received of the Sheriff of the County of *Leicester*, for and towards the setting forth and furnishing of one Ship of 450 Tuns, for the Service aforesaid.

Item, With the sum of eight thousand pounds, by him received of the Sheriff of the County of *Lincoln*, for and towards the setting forth and furnishing of one Ship of 800 Tuns, for the Service aforesaid.

Item, With the sum of five thousand pounds by him received of the Sheriff of the County of *Middlesex*, for and towards the setting forth and furnishing of one Ship of 500 Tuns, for the Service aforesaid.

Item, The said Sir *William Russel* and Sir *Henry Vane*, are charged with the sum of one hundred threescore and eight pounds, by them received of the Sheriff of the County of *Anglesey*, for and towards the setting forth and furnishing of one Ship of 100 Tuns, for the Service aforesaid.

Item, With the sum of two hundred and sixteen pounds, by them received of the Sheriff of the County of *Carnarvon*, for and towards the setting forth and furnishing of one Ship of 100 Tuns, for the Service aforesaid.

Item, With the sum of four hundred twenty and four pounds, by them received of the Sheriff of the County of *Denbigh*, for and towards the setting forth and furnishing of one Ship of 100 Tuns, for the Service aforesaid.

Item, With the sum of two hundred and sixteen pounds, by them received of the Sheriff of the County of *Flint*, for and towards the setting forth and furnishing of one Ship of 100 Tuns, for the Service aforesaid.

Item, With the sum of three hundred twenty and two pounds, by them received of the Sheriff of the County of *Montgomery*, for and towards the setting forth and furnishing of one Ship of 100 Tuns, for the Service aforesaid.

Item, With the sum of one hundred fifty and four pound, by them received of the Sheriff of the County of *Merioneth*, for and towards

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towards the setting forth and furnishing of one Ship of 100 Tuns, for the Service aforesaid.

Item, With the sum of three hundred threescore and one pounds, by them received of the Sheriff of the County of *Brecknock*, for and towards the setting forth and furnishing of one Ship of 150 Tuns, for the Service aforesaid.

Item, With the sum of two hundred forty and eight pounds, by them received of the Sheriff of the County of *Cardigan*, for and towards the setting forth and furnishing of one Ship of 150 Tuns, for the Service aforesaid.

Item, With the sum of three hundred and one pounds, by them received of the Sheriff of the County of *Carmarthen*, for and towards the setting forth and furnishing of one Ship of 150 Tuns, for the Service aforesaid.

Item, With the sum of five hundred forty and seven pounds, by them received of the Sheriff of the County of *Glamorgan*, for and towards the setting forth and furnishing of one Ship of 150 Tuns, for the Service aforesaid.

Item, With the sum of two hundred and threescore pounds, by them received of the Sheriff of the County of *Pembroke*, for and towards the setting forth and furnishing of one Ship of 150 Tuns, for the Service aforesaid.

Item, With the sum of one hundred fourscore and three pounds, by them received of the Sheriff of the County of *Radnor*, for and towards the setting forth and furnishing of one Ship of 150 Tuns, for the Service aforesaid.

This Accompt coming to our hands, we thought meet to present it for the Reader's more particular satisfaction.

Affairs in
Scotland.

Now we beg leave for a while to make a step into *Scotland*, to give an Account of the Transactions of Affairs in that Kingdom since the Month of *December* in the preceding Year 1637. The *Scots* begin their Year always with the Month of *January*, according to Foreign stile; so the first thing that offers it self in order of Time is, That his Majesty sent the Earl of *Roxborough*, Lord Privy-Seal (then at the Court in *England*) to *Scotland*, with certain Instructions to the Council, who were to meet at *Dalkeith*, to consider of the Disordered Affairs of that Kingdom. And the Council removed the Session [or Term] from *Linlithgow* to *Sterling*, twenty four miles from *Edinburgh*, to the end the Multitudes might be dispersed, under pain of Treason; but nevertheless they came in great Tumults to *Sterling* also, and the Earl of *Traquaire*, Lord Treasurer of that Kingdom, being newly returned back from the King, went with the rest of the Council to *Sterling*, where they caused a Proclamation to be made for the dispersing of the huge and dangerous Tumults there assembled, and to assure the King's Subjects of his Majesty's sincerity towards the Religion Established in that Kingdom, and caused the Proclamation to that purpose (following) to be made publick accordingly.

CHARLES

CHARLES by the Grace of God, King of *Great-Britain, France, and Ireland*, Defender of the Faith, &c. To Our Lovits, &c. Our Sheriffs in that Part conjunctly and severally, specially constituted, greeting.

INASMUCH as We, out of Our Princely Care of maintenance of the true Religion already professed, and for beating down of all Superstition, having ordained a Book of Common-Prayer to be compiled for the general Use and Edification of Our Subjects, within Our Ancient Kingdom of Scotland: The same was accordingly done. In the framing whereof We took great care and pains, so as nothing past therein but what was seen and approved by Us, before the same was either divulged or printed; assuring all Our loving Subjects, That not only Our intention is, but even the very Book will be a ready means to maintain the True Religion already professed, and beat out all Superstition, of which We in Our own time do not doubt but in a fair course to satisfy Our good Subjects: But having seen and considered some Petitions and Declarations given in to Our Council against the said Book, and late Canons of the Church, We find Our Royal Authority much injured thereby, both in the Matter and in the Carriage thereof; whereby We conceive these of Our Nobility, Gentry, Burroughs, Ministers, and others, who kept and assisted these Meetings and Convocations, for contriving and forming the said Petitions, or who have subscribed the same, to deserve and be liable to Our high Censure, both in their Persons and Fortunes, as having convened themselves, without either Our Consent or Authority; yet because We believe, That what they have done herein, is out of a preposterous Zeal, and not out of any Disloyalty or disaffection to Sovereignty, We are graciously pleased, so far forth as concerns these Meetings, for consulting or subscribing of these Petitions, or presenting the same to any Judge or Judges in Our said Kingdom, to dispense therewith, and with what may be their Fault or Error therein, to all such as upon Signification or Declaration of Our Pleasure, shall retire themselves as becometh good and dutiful Subjects: To which purpose Our Will and Pleasure is, and We charge you straightly, and command, That these Letters seen, incontinent you pass, and in Our Name and Authority, make intimation hereof to all Our Lieges and Subjects, by open Proclamation, at all places needful, wherethrough none pretend ignorance thereof; and therewith also that you in Our Name and Authority, discharge all such Convocations and Meetings in time coming, under the pain of Treason. And also that you command, charge, and inhibit all Our Lieges and Subjects, That none of them presume, nor take in hand, to resort nor repair to Our Burgh of Sterling, nor to no other Burgh where Our Council and Session sits, till first they declare their Cause of coming to Our Council, and procure their Warrant to that effect. And further, That you charge and command all sundry Provosts, Bailiffs, and Magistrates, within every Burgh, That they and every one of them, have special care and regard to see this Our Royal Will and Pleasure really

A Proclamation to beat down Superstition. The King hath ordained a Common-Prayer Book.

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ally and dutifully obeyed in all Points, and that no violation thereof be suffered within their Bounds, under all highest Pain, Crime, and Offence, that they may commit against us in that behalf. As also that you command and charge all and sundry Noblemen, Barons, Ministers, and Burroughs, who are not actually Inhabitants within this Our Burgh, and are not of the Number of the Lords of Our Privy Council and Session, and Members thereof, and are already within this Our Burgh, that they and every one of them, remove themselves, and depart and pass forth out of Our said Burgh, and return not again without the Warrant aforesaid, within six hours after the publication hereof, under the said pain of Treason. And as concerning any Petitions that shall hereafter be given Us, upon this or any other Subject, We are likewise pleased to declare, We will not shut Our Ears therefrom, so that neither the Form nor Matter be prejudicial to Our Regal Authority; the which to do, We commit to you, conjunctly and severally, Our full Power by these Our Letters, delivering the same by you duly execute and indorsed again to the Bearer. Given under Our Signet at Sterling, the 19th day of February, and of Our Reign the 13th Year, 1638.

Per Actum Secreti Concilii.

Upon the publishing of this Proclamation, it met with this Protestation.

For God and the King.

February 19.

WE Noblemen, Barons, Ministers, Burgers, appointed to attend his Majesty's Answer to our humble Petition and Complaint, and to prefer new Grievances, and to do what else may lawfully conduce to our humble Desires; That whereupon the 23d of September last, we presented a Supplication to Your Lordships, and another upon the 18th of October last; and also a new Bill relative to the former upon the 19th of December last, and did therein humbly remonstrate our just Exceptions against the Service-Book, and Book of Canons; and also against the Arch-Bishops and Bishops of this Kingdom, as the Contrivers, Maintainers, and Urgers thereof, and against their sitting as our Judges, until the Cause be decided; earnestly supplicating withal, to be freed and delivered from these and all other Innovations of that kind, introduced against the laudable Laws of this Kingdom, as that of the High Commission, and other Evils particularly mentioned, and generally contained in our foresaid Supplications and Complaints; and that this our Party Delinquent against our Religion and Laws, may be taken order with, and those pressing Grievances may be taken order with, and redressed according to the Laws of this Kingdom, as by our said Supplications and Complaints doth more largely appear; With the which, on the 19th of December last, we gave in a Declinator against the Arch-Bishops and Bishops as our Parties, who by consequence could not be our Judges: whereupon your Lordships did declare, by Your Act at Dalkeith, the said 19th of December, That You would present our Petitions to His Majesty's Royal Consideration, and that without prejudice of the Declinator given in by us the said Supplicants, whereupon we should be heard at time and place convenient, and in the mean time should receive no prejudice, as the said Act in it self beareth. And
whereas

whereas we your Lordships Supplicants, with a great deal of patience, and hope also grounded on sundry Promises, were expecting an Answer to these our humble Desires, and having learned that upon some Directions of his Majesty anent our Supplications and Complaints unto your Lordships of the secret Council, your Lordships admits to the consulting and judging anent our Supplications, and his Majesty's Answer thereunto; the Arch-Bishops and Bishops our direct Parties, contrary to our first Declinator propounded at Dalkeith, and now renewed at Sterling; and contrary to your Lordships Act aforesaid at Dalkeith, and contrary to our Religion, and Laws, and humble Supplications; therefore lest our silence be prejudicial to this so important a Cause, as concerns God's Glory and Worship, our Religion, Salvation, the Laws and Liberties of this Kingdom, or derogatory to the former Supplications and Complaints, or unanswerable to the trust of our Commission; out of our bounden duty to our God, our King and native Country, we are forced to take Instruments in Notaries Hands, of your Lordships refusal to admit our Declinator, or remove these our Parties, and to protest in manner following.

First, That we may have our immediate recourse to our Sacred Sovereign, to present our Grievances, and in a legal way to prosecute the same before the ordinary competent Judges, Civil or Ecclesiastical, without any Offence offered by us, or taken by your Lordships.

Secondly, We protest that the Arch-Bishops and Bishops, our Parties complained upon, cannot be reputed or esteemed Lawful Judges, to sit in any Judicatory in this Kingdom, Civil or Ecclesiastical, upon any of the Supplicants, until after lawful Trial judicially, they purge themselves of such Crimes as we have already laid to their charge, offering to prove the same whensoever his Sacred Majesty shall please to give us audience.

Thirdly, We protest no Act nor Proclamation to follow thereupon, past, or to be past in Council or out of Council, in presence of the Arch-Bishops and Bishops, whom we have already declined to be our Judges, shall be any ways prejudicial to us the Supplicants, our Persons, Estates, lawful Meetings, Proceedings or Pursuits.

Fourthly, We protest that neither we, nor any whose Heart the Lord shall move to join with us in these our Supplications, against the aforesaid Innovations, shall incur any danger in Life, Lands, or any Political or Ecclesiastical Pains, for not observing such Acts, Books, Canons, Rites, Judicatures, Proclamations introduced without or against the Acts of General Assemblies, or Acts of Parliament, the Statutes of this Kingdom, but that it shall be lawful to us or them to use our selves in Matters of Religion, of the External Worship of God and Polity of the Church, according to the Word of God, and laudable Constitutions of this Church and Kingdom, conform to his Majesty's Declaration the 9th of December last.

Fifthly, Seeing by the legal and submissive way of our former Supplications, all those who take these Innovations to heart, have bin kept calm, and carried themselves in a quiet manner in hopes of redress; We protest that if any Inconvenience shall fall out, which we pray the Lord to prevent, upon the pressing of any the foresaid Innovations or Evils, specially or generally contained in our former Supplications and Complaints, and upon your Lordships refusal, to take order there-anent, the same be not imputed unto us, who most humbly seek all things to be reformed by an Order.

Sixthly, We protest that these our Requests, proceeding from Conscience,

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and a due respect to his Majesty's Honour, do tend to no other end, but to the preservation of the true Reformed Religion, the Laws and Liberties of his Majesty's most ancient Kingdom, and satisfaction of our most humble Desires contained in our Supplication and Complaint, according to his Majesty's accustomed Goodness and Justice; from which we do certainly expect that his Sacred Majesty will provide and grant such Remedy to our just Petitions and Complaints, as may be expected from so gracious a King towards his most Loyal and Dutiful Subjects, calling for redress of so pressing Grievances, and praying to God that his Majesty may long and prosperously reign over us.

After this their Protestation, they did erect a great number of Tables (as they called them); in *Edinburgh* four Principals, one of the Nobility, another of the Gentry, a third of the Burroughs, and a fourth of the Ministers. And the Gentry had many subordinate Tables, according to their several Shires. These several Tables did consult of what they thought fit to be propounded at the General Table, which consisted of several Commissioners chosen from the other four Tables. And from this time they proceeded in framing and subscribing of their Covenant; concerning which, saith Dr. *Belcanqual*, the reputed Penman of the King's Declaration, *That the first Dung that which from these Stables was thrown upon the Face of Authority and Government, was that lewd Covenant and seditious Band annexed unto it; which followeth in these words.*

The Confession of Faith of the Kirk of *Scotland*, subscribed at first by the King's Majesty and his Household in the Year of God 1580; thereafter by Persons of all Ranks in the Year 1581, by Ordinance of the Lords of the Secret Council, and Acts of the General Assembly; subscribed again by all sorts of Persons, in the Year 1590, by a new Ordinance of Council, at the desire of the General Assembly; with a General Band for maintenance of the True Religion, and the Kings Person, and now subscribed in the Year 1638, by us Noblemen, Barons, Gentlemen, Burgeses, Ministers, and Commons under subscribing; together with our Resolution and Promises for the Causes after specified, to maintain the said True Religion, and the Kings Majesty, according to the Confession aforesaid, and Acts of Parliament; the Tenure whereof here followeth.

WE all, and every one of Us under written, do protest, That after long and due examination of our own Consciences in Matters of True and False Religion, are now thoroughly resolved of the Truth, by the Word and Spirit of God; and therefore We believe with Our Hearts, confess with Our Mouths, subscribe with Our Hands, and constantly affirm before God and the whole World, That this only is the true Christian Faith and Religion, pleasing God, and bringing Salvation to Man, which now is by the Mercy of God revealed to the World by the preaching of the blessed Evangel. And received, believed, and defended by many and sundry notable Kirks and Realms, but chiefly by the Kirk of *Scotland*, the King's Majesty, and three Estates of this Realm, as God's Eternal Truth, and only Ground of Our Salvation; as more particularly

cularly is expressed in the Confession of Our Faith, established and publicly confirmed by sundry Acts of Parliament; and now of a long time hath bin openly professed by the King's Majesty, and whole Body of this Realm, both in Burgh and Land. To the which Confession, and Form of Religion, we willingly agree in Our Consciences in all Points, as unto God's undoubted Truth and Verity, grounded only upon his written Word; and therefore We abhor and detest all contrary Religion and Doctrine, but chiefly all kind of Papistry in general and particular Heads, even as they are now damned and confuted by the Word of God, and Kirk of *Scotland*. But in special, We detest and refuse the usurped Authority of that Roman Antichrist upon the Scriptures of God, upon the Kirk, the Civil Magistrate and Consciences of Men; all his Tyrannous Laws made upon indifferent Things against our Christian Liberty; his Erroneous Doctrine against the Sufficiency of the Written Word, the Perfection of the Law, the Office of Christ and his blessed Evangel; His corrupted Doctrine concerning Original Sin, Our natural inability and rebellion to God's Law, Our Justification by Faith only, Our imperfect Sanctification and Obedience to the Law, the Nature, Number, and use of the Holy Sacraments; His five Bastard Sacraments, with all his Rights, Ceremonies, and false Doctrine, added to the Ministration of the true Sacraments, without the Word of God. His cruel Judgments against Infants departing without the Sacrament; his absolute necessity of Baptism; his blasphemous Opinion of Transubstantiation, or real presence of Christ's Body in the Elements, and receiving of the same by the Wicked, or Bodies of Men. His Dispensations with solemn Oaths, Perjuries, and degrees of Marriage, forbidden in the Word; his cruelty against the Innocent divorced; his devilish Mass; his blasphemous Priesthood; his prophane Sacrifice for the Sins of the Dead and the Quick; his Canonization of Men, calling upon Angels or Saints departed, worshipping of Imagery, Relicks, and Crosses; dedicating of Kirks, Altars, Days, Vows to Creatures; his Purgatory, Prayers for the Dead, Praying or Speaking in a strange Language; with his Processions and blasphemous Letany, and multitude of Advocates or Mediators; his manifold Orders, Auricular Confession; his desperate and uncertain Repentance; his general and doubtful Faith; his Satisfaction of Men for their Sins; his Justification by Works, *Opus Operatum*, Works of Supererogation, Merits, Pardons, Peregrinations and Stations: His Holy Water, baptizing of Bells, conjuring of Spirits, Crossing, Saning, Anointing, Conjuring, Hallowing of God's good Creatures, with the Superstitious Opinion joined therewith. His worldly Monarchy, and wicked Hierarchy; his three solemn Vows, with all his shavelings of sundry sorts; his erroneous and bloody Decrees made at *Trent*, with all the Subscribers & Approvers of that cruel and bloody Band conjured against the Kirk of God. And finally, We detest all his vain Allegories, Rites, Signs, and Traditions, brought in the Kirk without or against the Word of God, and Doctrine of this true reformed Kirk. To which We join Our selves willingly, in Doctrine, Religion, Faith, Discipline, and Use of the Holy Sacraments, as lively Members of the same, in Christ Our Head, promising and swearing, by the Great Name of the Lord Our God, That We shall continue in the Obedience of the Doctrine and Disci-

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‘ pline of this Kirk, and shall defend the same according to Our Vo-
 ‘ cation and Power all the days of Our Lives, under the pains con-
 ‘ tained in the Law, and danger both of Body and Soul in the day of
 ‘ God’s fearful Judgment. And seeing that many are stirred up by
 ‘ Satan, and that Roman Antichrist, to Promise, Swear, Subscribe,
 ‘ and for a time use the holy Sacraments in the Kirk, deceitfully against
 ‘ their own Consciences, minding thereby, first under the External
 ‘ Cloak of Religion, to corrupt and subvert secretly God’s True Re-
 ‘ ligion within the Kirk; and afterwards, when time may serve, to
 ‘ become open Enemies and Persecuters of the same, under vain hope
 ‘ of the Pope’s Dispensation, devised against the Word of God, to
 ‘ his great Confusion, and their double Condemnation in the Day
 ‘ of the Lord Jesus.

‘ We therefore willing to take away all suspicion of Hypocrisy, and
 ‘ of such double dealing with God and his Kirk, protest and call the
 ‘ Searcher of all Hearts for Witness, that Our Minds and Hearts do
 ‘ fully agree with this our Confession, Promise, Oath, and Subscrip-
 ‘ tion: so that We are not moved for any worldly Respect, but are
 ‘ persuaded only in Our Consciences, through the knowledge and
 ‘ love of God’s True Religion, printed in Our Hearts by the Holy
 ‘ Spirit, as we shall answer to him in the Day when the Secrets of all
 ‘ Hearts shall be disclosed. And because we perceive that the quietness
 ‘ and stability of Our Religion and Kirk doth depend upon the safety
 ‘ and good behaviour of the King’s Majesty, as upon a comfortable
 ‘ Instrument of God’s Mercy granted to this Country for the mainte-
 ‘ nance of his Kirk, and ministration of Justice among us, we protest and
 ‘ promise with Our Hearts under the same Oath, hand writ, and pains,
 ‘ that We shall defend his Person and Authority, with our Goods,
 ‘ Bodies, and Lives, in the defence of Christ his Evangel, Liberties of
 ‘ Our Country, Ministration of Justice, and Punishment of Iniquity,
 ‘ against all Enemies within this Realm, or without, as We desire Our
 ‘ God to be a strong and merciful Defender to Us in the day of Our
 ‘ Death, and coming of Our Lord Jesus Christ; to whom, with the
 ‘ Father and the Holy Spirit, be all Honour and Glory eternally.

‘ Like-as many Acts of Parliament not only in general do abrogate,
 ‘ annul, and rescind all Laws, Statutes, Acts, Constitutions, Canons
 ‘ Civil or Municipal, with all other Ordinances and practick Penalties
 ‘ whatsoever, made in prejudice of the True Religion, and Professors
 ‘ thereof; or of the True Kirk Discipline, Jurisdiction, and freedom
 ‘ thereof; or in favours of Idolatry and Superstition: Or of the Papi-
 ‘ stical Kirk, as *Act. 3. Act. 31. Parl. 1. Act. 23. Parl. 11. Act. 114.*
 ‘ *Parl. 12. of King James the 6th.* That Papistry and Superstition
 ‘ may be utterly suppressed, according to the intention of the Acts of
 ‘ Parliament reported in *Act. 5. Parl. 20. King James the 6th.* And
 ‘ to that end they ordained all Papists and Priests to be punished by
 ‘ manifold Civil and Ecclesiastical Pains, as Adversaries to God’s True
 ‘ Religion preached, and by Law established within this Realm, *Act. 24.*
 ‘ *Parl. 11. King James the 6th,* as common Enemies to all Christian
 ‘ Government, *Act. 18. Parl. 16. King James the 6th,* as Rebels
 ‘ and Gainstanders of Our Sovereign Lord’s Authority, *Act. 47.*
 ‘ *Parl. 3. K. James 6. and as Idolaters, Act. 104. Parl. 7. K. James 6.*
 ‘ but also in particular, (by and attour the Confession of Faith) do
 ‘ abolish and condemn the Pope’s Authority and Jurisdiction out of
 ‘ this

‘ this Land, and ordains the Maintainers thereof to be punished, *Act 2. Parl. 1. Act 51. Parl. 3. Act 106. Parl. 7. Act 114. Parl. 12. of K. James 6.* do condemn the Pope’s erroneous Doctrine, or any other erroneous Doctrine repugnant to any of the Articles of the true and Christian Religion publicly preached, and by Law established in this Realm; and ordains the Spreaders or Makers of Books or Libels, or Letters or Writs of that nature, to be punished: *Act 46. Parl. 3. Act 106. Parl. 7. Act 24. Parl. 11. K. Jam. 6.* do condemn all Baptism conform to the Pope’s Kirk, and the Idolatry of the Mass; and ordains all Sayers, wilful Hearers, and Concealers of the Mass, the Maintainers and Resettlers of the Priests, Jesuites, trafficking Papists to be punished without any exception or restriction; *Act 5. Parl. 1. Act 120. Parl. 12. Act 164. Parl. 13. Act 193. Parl. 14. Act 1. Parl. 19. Act 5. Parl. 20.* King *James 6.* do condemn all Erroneous Books and Writs containing Erroneous Doctrine against the Religion presently professed, or containing Superstitious Rites and Ceremonies Papistical, whereby the People are greatly abused; and ordains the home-bringers of them to be punished, *Act 25. Parl. 11. K. Jam. 6.* do condemn the Monuments and Dregs of by-gone Idolatry; as going to Crosses, observing the Festival Days of Saints, and such other Superstitious and Papistical Rites, to the dishonour of God, contempt of true Religion, and fostering of great Errors among the People, and ordains the users of them to be punished for the second fault as Idolaters; *Act 104. Parl. 7. K. Jam. 6.*

‘ Like-as many Acts of Parliament are conceived for maintenance of God’s true and Christian Religion, and the Purity thereof, in Doctrine and Sacraments of the true Church of God, the Liberty and Freedom thereof, in her National, Synodal Assemblies, Presbyteries, Sessions, Policy, Discipline, and Jurisdiction thereof, as that Purity of Religion, and Liberty of the Church was used, professed, exercised, preached and confessed according to the Reformation of Religion in this Realm. As for instance: *Act 99. Parl. 7. Act 23. Parl. 11. Act 114. Parl. 12. Act 160. Parl. 13. K. Jam. 6.* ratified by *Act 4. K. Charles.* So that *Act 6. Parl. 1. and Act 68. Parl. 6. of K. Jam. 6.* in the Year of God 1579, declares the Ministers of the blessed Evangel, whom God of his Mercy had raised up, or hereafter should raise, agreeing with them that then lived in Doctrine and Administration of the Sacraments, and the People that professed Christ, as he was then offered in the Evangel, and doth communicate with the holy Sacraments (as in the Reformed Kirks of this Realm they were presently administered) according to the Confession of Faith, to be the true and holy Kirk of Christ Jesus within this Realm, and decerns and declares all and sundry, who either gainsays the Word of the Evangel, received and approved as the heads of the Confession of Faith, professed in Parliament in the Year of God 1560, specified also in the first Parliament of *K. Jam. 6.* and ratified in this present Parliament, more particularly do specify; or that refuses the Administration of the holy Sacraments as they were then ministrated, to be no Members of the said Kirk within this Realm, and true Religion presently professed, so long as they keep themselves so divided from the society of Christ’s Body. And the subsequent *Act 69. Parl. 6. K. James 6.* declares, That there is no other face of Kirk, nor other face of Religion, than was presently at that time by the favour

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of God established within this Realm, which therefore is ever stiled
 God's true Religion, Christ's true Religion, the true and Christian
 Religion, and a perfect Religion. Which by manifold Acts of Parlia-
 ment, all within this Realm are bound to profess to subscribe the Ar-
 ticles thereof, the Confession of Faith, to recant all Doctrine and Er-
 rors repugnant to any of the said Articles, *Act 4. & 9. Parl. 1. Act 45,*
46, 47. Parl. 3. Act 71. Parl. 6. Act 106. Parl. 7. Act 24. Parl. 11.
Act 123. Parl. 12. Act 194. & 197. Parl. 14. of King James 6. And
 all Magistrates, Sheriffs, &c. on the one part, are ordained to search,
 apprehend, and punish all Contraveners: For instance, *Act 5. Parl. 1.*
Act 104. Parl. 7. Act 25. Parl. 11. K. Jam. 6. And that, notwith-
 standing of the King's Majesty's Licences on the contrary, which are
 discharged, and declared to be of no force, in so far as they tend in
 any ways to the prejudice and hindrance of the execution of the Acts
 of Parliament against *Papists*, and Adversaries of the true Religion,
Act 106. Parl. 7. K. James 6. On the other part, in *Act 47. Parl. 3.*
K. James 6. it is declared and ordained, Seeing the Cause of God's
 true Religion, and his Highness's Authority are so joined, as the hurt
 of the one is common to both; and that none shall be reputed as loyal
 and faithful Subjects to our Sovereign Lord, or his Authority, but be
 punishable as Rebels and Gainstanders of the same, who shall not
 give their Confession, and make Profession of the said true Religion;
 and that they who after defection shall give the Confession of their
 Faith of new, they shall promise to continue therein in time coming,
 to maintain our Sovereign Lord's Authority, and at the uttermost of
 their Power to fortifie, assist and maintain the true Preachers and
 Professors of Christ's Religion, against whatsoever Enemies and Gain-
 standers of the same: and namely, against all such of whatsoever Na-
 tion, Estate, or Degree they be of, that have joined and bound them-
 selves, or have assisted, or assists, to set forward and execute the cruel
 Decrees of *Trent*, contrary to the Preachers and true Professors of
 the Word of God, which is repeated word by word in the Articles
 of pacification at *Pearth* the 23d Feb. 1572, approved by Parliament
 the last of *April* 1573, ratified in Parliament 1578, and related *Act 123.*
Parl. 12. of King James 6. with this addition, *That they are bound to*
resist all treasonable Uproars and Hostilities raised against the true
Religion, the King's Majesty and the true Professors.

Like-as all Lieges are bound to maintain the King's Majesty's Roi-
 al Person and Authority, the Authority of Parliaments, without
 which neither any Laws or lawful Judicatories can be established,
Act 130. Act 131. Parl. 8. K. James 6. and the Subjects Liberties, who
 ought only to live and be governed by the King's Laws, the common
 Laws of this Realm allenary, *Act 48. Parl. 3. K. James 1. Act 79.*
Parl. 6. K. James 4. repeated in *Act 131. Parl. 8. K. James 6.* which
 if they be innovated or prejudged, the Commission anent the Union
 of the two Kingdoms of *Scotland* and *England*, which is the sole *Act*
 of 17. *Parl. K. James 6.* declares such confusion would ensue, as this
 Realm could be no more a free Monarchy: because by the funda-
 mental Laws, ancient Priviledges, Offices and Liberties of this King-
 dom, not only the Princely Authority of his Majesty's Roial Descent
 hath been these many Ages maintained, also the Peoples security of
 their Lands, Livings, Rights, Offices, Liberties and Dignities preser-
 ved. And therefore for the preservation of the said true Religion,
 Laws

‘ Laws and Liberties of this Kingdom, it is statute by *Act 8. Parl. 1.*
 ‘ repeated in *Act 99. Parl. 7.* ratified in *Act 23. Parl. 11,* & *14 Act of*
 ‘ *K. James 6. & 4 Act of King Charles,* That all Kings and Princes at
 ‘ their Coronation and Reception of their Princely Authority, shall make
 ‘ their faithful Promise by their Solemn Oath in the Presence of the E-
 ‘ ternal God, That during the whole time of their Lives they shall serve
 ‘ the same Eternal God to the utmost of their Power, according as he
 ‘ hath required in his most holy Word, contained in the Old and New Te-
 ‘ staments, and according to the same Word shall maintain the true Reli-
 ‘ gion of Christ Jesus, the Preaching of his holy Word, the due and right
 ‘ Ministration of the Sacraments now received and preached within this
 ‘ Realm (according to the Confession of Faith immediately preceding;)
 ‘ and shall abolish and gain-stand all false Religion contrary to the same;
 ‘ and shall rule the People committed to their Charge according to the Will
 ‘ and Commandment of God revealed in his foresaid Word, and according
 ‘ to the lawable Laws and Constitutions received in this Realm, no ways
 ‘ repugnant to the said Will of the Eternal God; and shall procure, to
 ‘ the utmost of their Power, to the Kirk of God, and whole Christian
 ‘ People, true and perfect Peace in all time coming: And that they
 ‘ shall be careful to root out of their Empire, all Hereticks and Ene-
 ‘ mies to the true Worship of God, who shall be Convicted by the true
 ‘ Kirk of God of the foresaid Crimes. Which was also observed by
 ‘ his Majesty at his Coronation in *Edinburgh 1633,* as may be seen in
 ‘ the Order of the Coronation.

‘ In obedience to the Commands of God, conform to the practice of
 ‘ the Godly in former times, and according to the laudable Example of
 ‘ our worthy and religious Progenitors, and of many yet living amongst
 ‘ us, which was warranted also by Act of Council, commanding a Gene-
 ‘ ral Band to be made and subscribed by his Majesty’s Subjects of all
 ‘ Ranks, for two Causes: one was, for defending the true Religion, as
 ‘ it was then reformed, and is expressed in the Confession of Faith above
 ‘ written, and a former large Confession established by sundry Acts of
 ‘ lawful General Assemblies, and of Parliament, unto which it hath re-
 ‘ lation, set down in publick Catechisms, and which had bin for many
 ‘ Years with a blessing from Heaven Preached and Professed in this Kirk
 ‘ and Kingdom, as God’s undoubted Truth, grounded only upon his
 ‘ written Word: The other Cause was for maintaining the King’s Ma-
 ‘ jesty, his Person and Estate; The true Worship of God and the King’s
 ‘ Authority being so straightly joined, as that they had the same Friends
 ‘ and common Enemies, and did stand and fall together. And finally
 ‘ being convinced in our minds, and confessing with our mouths, that
 ‘ the present and succeeding Generations in this Land are bound to
 ‘ keep the foresaid National Oath and Subscription inviolable,

‘ We Noblemen, Barons, Gentlemen, Burgeses, Ministers, and Com-
 ‘ mons under subscribing, considering divers times before, and espe-
 ‘ cially at this time, the danger of the true Reformed Religion, of the
 ‘ King’s Honour, and of the publick Peace of the Kingdom, by the ma-
 ‘ nifold Innovations and Evils generally contained, and particularly
 ‘ mentioned in our late Supplications, Complaints, and Protestations,
 ‘ Do hereby profess, and before God, his Angels, and the World solemn-
 ‘ ly declare, that with our whole Hearts we agree and resolve all the
 ‘ days of our life constantly to adhere unto, and to defend the fore-
 ‘ said true Religion, and forbearing the practice of all Novations,
 ‘ already

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already introduced in the matters of the Worship of God, or appro-
 bation of the Corruptions of the publick Government of the Kirk,
 or civil Places and Power of Kirkmen, till they be tried and allow-
 ed in free Assemblies, and in Parliaments, to labour by all means
 lawful to recover the Purity and Liberty of the Gospel, as it was e-
 stablished and professed before the aforesaid Novations: And because
 after due examination We plainly perceive, and undoubtedly believe,
 that the Innovations and Evils contained in our Supplications, Com-
 plaints and Protestations have no warrant of the Word of God, are
 contrary to the Articles of the aforesaid Confessions, to the intention
 and meaning of the blessed Reformers of Religion in this Land, to
 the above written Acts of Parliament, and do sensibly tend to the re-
 establishing of the Popish Religion and Tyranny, and to the subver-
 sion and ruin of the true Reformed Religion, and of our Liberties,
 Laws and Estates; We also declare, that the foresaid Confessions are to
 be interpreted, and ought to be understood of the foresaid Novations
 and Evils, no less than if every one of them had bin expressed in the
 foresaid Confessions; and that we are obliged to detest and abhor
 them, amongst other particular Heads of Papistry abjured therein;
 And therefore from the knowledge and Conscience of our Duty to
 God, to our King and Country, without any worldly respect or in-
 ducement, so far as humane infirmity will suffer, wishing a further
 measure of the Grace of God for this effect, We promise and swear
 by the great Name of the Lord our God, To continue in the profes-
 sion and obedience of the aforesaid Religion; That we shall defend
 the same, and resist all these contrary Errors and Corruptions, ac-
 cording to our Vocation, and to the utmost of that power that God
 hath put into our hands all the days of our life. And in like manner
 with the same Heart we declare before God and Men, That we have
 no intention or desire to attempt any thing that may turn to the dis-
 honour of God or the diminution of the King's Greatness and Au-
 thority; but on the contrary we promise and swear, That we shall to
 the utmost of our power, with our Means and Lives, stand to the de-
 fence of our dread Sovereign the King's Majesty, his Person and Au-
 thority, in the defence and preservation of the aforesaid true Religi-
 on, Liberties and Laws of the Kingdom; As also to the mutual De-
 fence and Assistance, every one of us of another, in the same Cause
 of maintaining the true Religion, and his Majesty's Authority, with
 our best Counsels, our Bodies, Means and whole Power, against all
 sorts of Persons whatsoever. So that whatsoever shall be done to
 the least of us for that Cause, shall be taken as done to us all in ge-
 neral, and to every one of us in particular. And that we shall neither
 directly nor indirectly suffer our selves to be divided, or withdrawn
 by whatsoever Suggestion, Combination, Allurement, or Terror from
 this blessed and loyal Conjunction, nor shall cast in any Let or Impe-
 diment that may stay or hinder any such Resolution, as by common
 consent shall be found to conduce for so good ends: but on the con-
 trary shall by all lawful means, labour to further and promote the
 same. And if any such dangerous and divisive Motion be made to
 Us by Word or Writ, We and every one of Us, shall either suppress
 it, or (if need be) shall incontinently make the same known, that it
 may be timously obviated. Neither do we fear the foul Aspersions of
 Rebellion, Combination, or what else our Adversaries from their Craft
 and

and Malice would put upon Us, seeing what We do is so well warranted, and ariseth from an unfeigned desire to maintain the True Worship of God, the Majesty of Our King, and the Peace of the Kingdom, for the common happiness of Our selves and Posterity. And because We cannot look for a Blessing from God upon Our Proceedings, except with Our Profession and Subscription, We join such a Life and Conversation as becometh Christians, who have renewed their Covenant with God; We therefore faithfully promise, for Our Selves, Our Followers, and all other under Us, both in publick, in Our particular Families, and personal Carriage, to endeavour to keep Our selves within the bounds of Christian Liberty, and to be good Examples to others of all Godliness, Soberness, and Righteousness, and of every Duty We owe to God and Man. And that this Our Union and Conjunction may be observed without violation, We call the Living God, the Searcher of Our Hearts, to Witness, who knoweth this to be Our sincere Desire, and unfeigned Resolution, as we shall answer to *Jesus Christ* in the great Day, and under the pain of God's everlasting Wrath, and of Infamy, and of loss of all Honour and Respect in this World: *Most humbly beseeching the Lord to strengthen Us by his Holy Spirit for this end, and to bless Our Desires and Proceedings with a happy Success, that Religion and Righteousness may flourish in the Land, to the Glory of God, the Honour of Our King, and Peace and Comfort of Us all.*

In Witness whereof We have subscribed with Our Hands all the Premises, &c.

14 Caroli.

This Covenant was no sooner framed, but it so took, as it was presently sworn, first at *Edinburgh*, in the Month of *February* 1638 Scottish style, and then sent every-where through the Country, to be subscribed according to the Example of those in *Edinburgh*.

It is observed in the King's Declaration, That whereas the Band annexed to the former Confession, was made in defence of the King's Authority and Person, with their Fortunes, Bodies, and Lives, in defence of the Gospel of Christ, and Liberties of the Kingdom, &c. But to this Covenant (*saieth the Declaration*) they have added a mutual Defence of one another, and made against all Persons whatsoever, who shall oppose them in their Courses, not excepting the King himself; neither was the King's consent to this their New Covenant ever granted, nor ever so much as once asked.

K. D. p. 7.

The Proclamation dated *Feb. 19*, and published at *Sterling*, was so far from giving satisfaction, that it produced greater confusion; for it met with a Protestation sent from those of the *Tables*, who notwithstanding the Proclamation, continued to sit. Whereupon the Council appointed a solemn Meeting to be upon the first of *March* at *Sterling*, for the examining of Things, that they might send their Advice to Court. When the first of *March* came, the Lord Chancellor sent his Excuse, the rest of the Bishops declined to come, except Bishop *Brechin*: Nevertheless the Lords of the Council went on, and continued consulting and debating four days together; the issue of which was, to send Sir *John Hamilton*, the Justice Clerk, to the King with Instructions, to this effect.

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Instructions from His Majesty's Council to the Lord Justice-Clerk, whom they have ordained to go to Court for His Majesty's Service.

IN the first place you are to receive from the Clerk of the Council, all the Acts past since Our meeting upon the 1st of *March* instant. Item, You have to represent to his Majesty, That the Diet of Council was appointed to be solemnly kept, by the Advice of the Lord Chancellor, and Remanant Lords of the Clergy being at *Edinburgh* for the time, who assured Us, That they should keep the Diet precisely; but at Our meeting at *Sterling*, We received a Letter of Excuse from the Lord Chancellor, which forces Us to proceed without his Lordships presence, or any others of the Lords of the Clergy, except the Bishop of *Brechin*, who attended Us three days, but removed before the closing of Our Opinions anent the Business.

Item, That immediately after We had resolved to direct you with a Letter of Trust to his Majesty, We did send Our Letter to the Lord Chancellor, acquainting him with Our Proceedings, and desiring him to consider thereof; and if he approved the same, to Sign them, and to cause the Remanant Lords of the Clergy nearest unto him, and namely the Bishop of *Brechine*, who was an Ear and Eye-Witness to our Consultations, to sign the same, and by their Letter to His Majesty, to signify their Approbation thereof; or if his Lordship did find some other way more convenient for His Majesty's Honour, and the Peace of the Country, that his Lordship by his Letter to the Lord Treasurer or Privy-Seal, would acquaint them therewith, to the effect they might convene the Council for consulting thereabout.

Item, That you shew His Majesty, That His Majesty's Councils, all in one Voice, find, That the Causes of the general Combuitions in the Country, are the Fears apprehended of Innovation of Religion and Discipline of the Kirk, (established by the Laws of the Kingdom) by occasion of the *Service-Book*, Book of *Canons*, and *High-Commission*, and from the Introduction thereof, contrary to, or without Warrant of the Laws of the Kingdom.

Item, You are to present to His Majesty, Our humble Opinion, that seeing, and as We conceive the *Service-Book*, Book of *Canons* and *High-Commission* (as it is set down) are the occasion of this Combustion; and that the Subjects offer themselves upon peril of their Lives, to clear, That the said *Service-Book*, and others aforesaid, contain divers Points contrary to the Religion presently professed, and Laws of the Kingdom, in matter and manner of Introduction, that the Lords think it expedient that it be represented to his Majesty's gracious Consideration, if His Majesty may be pleased to declare, as an Act of His singular Justice, That He will take Trial of His Subjects Grievances, and the Reasons thereof, in his own Time, and in His own Way, according to the Laws of this Kingdom; and that His Majesty may be pleased graciously to declare, That in the mean time he will not press nor urge His Subjects therewith, notwithstanding any Act or Warrant made in the contrary.

And

‘ And in case his Majesty shall be graciously pleased to approve of
‘ our humble Opinions, you are thereafter to present to his Majesty’s
‘ gracious and wise Consideration, if it shall not be fitting to consult
‘ his Majesty’s Council, or some such of them as he shall be pleased to
‘ call to himself, or allow to be sent from the Table, both about
‘ the Time and way of doing it.

‘ And if his Majesty (as God forbid) shall dislike of what we
‘ have conceived most conducing to his Majesty’s Service, and Peace of
‘ the Kingdom, you are to urge, by all the Arguments you can, That
‘ his Majesty do not determine upon any other Course, until some at
‘ least of his Council from this, be heard to give the Reasons of their
‘ Opinions: And in this case you are likewise to present to his Ma-
‘ jesty’s Consideration, if it shall not be fitting and necessary to call
‘ for his Informers, together with some of his Council, that in his
‘ own presence he may hear the Reasons of both informations
‘ fully debated.

‘ You shall likewise shew his Majesty, That this Council having
‘ taken to their Consideration what further was to be done for com-
‘ posing and settling of the present Combustion within that Kingdom,
‘ and dissipating of the Convocations and Gatherings within the
‘ same, seeing Proclamations are already made and published, dis-
‘ charging all such Convocations and unlawful Meetings; the Lords
‘ after debating, find they can do no further than is already done
‘ herein, until his Majesty’s Pleasure be returned to this our humble
‘ Remonstrance.

Signed,

Traquair,
Roxborough,
Winton,
Perth,
Wigton,
Kinghorne,
Lauderdale,
Southesk,
Angus,

Lorn,
Down,
Elphinston,
Napier,
J. Hay,
Tho. Hope,
Ja. Carmichael,
W. Elphinston.

These Instructions being transmitted to the Lords of the Clergy,
were returned signed as follows.

St. Andrews.
Da. Edin,
Jo. Dumblanen,

Tho. Gallovid,
Wal. Brechinen,

These Instructions were seconded by a private Letter to the King
signed by *Traquair* and *Roxborough*, to the effect following.

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Most Sacred Sovereign,

Although the miserable Estate of this poor Kingdom, will be sufficiently understood by your Majesty from this Gentleman Sir John Hamilton's Relation; yet we conceive our selves in a special manner bound and obliged to represent what we conceive does so nearly concern your Majesty's Honour and Service; and therefore give us leave truly and faithfully to tell your Majesty, That since the last Proclamation, the fear of Innovation of Religion is so apprehended by all sorts of Subjects, from all Corners of this Kingdom, that there is nothing to be seen here but a general Combustion, and all men strengthening themselves by subscribing Bands, and by all other means, for refusing of that which they seem so much to fear. This is come to such a height, and daily like to encrease more and more, that we see not a probability of Force or Power within this Kingdom to repress this Fury, except your Majesty may be graciously pleased, by some Act of your own, to secure them of that which they seem so much to apprehend by the in-bringing of the Books of Common-Prayer, and Canons.

The way which the Subjects have taken, and daily go about in the prosecution of their Business is inexcusable, and no ways agreeable to the Duty of good Subjects. But your Majesty is wisely to consider what is the best and safest course for your own Honour, and Peace of your Government: And since Religion is pretended to be the Cause of all, if it shall not be a safe Course to free them at this time from Fears, by which means the wiser sort will be satisfied, and so your Majesty enabled, with less pain or trouble, to overtake the Insolencies of any who shall be found to have kicked against Authority.

We are the rather moved at this time be of this Opinion, That having found it the Opinion, not only of those to whom your Majesty wrote in particular, (except of the Marquess of Huntley, who as yet is not come from the North) but of most of the Noblemen, and Men of respect within this Kingdom. We find few or none well satisfied with the Business, or to whom we dare advise your Majesty to trust in the prosecution thereof; and if any have or shall inform your Majesty to the contrary, give us leave humbly to intreat your Majesty to be pleased to call them before your Self, that in our presence you may hear the Reasons of both Informations fully debated.

So praying God to grant your Majesty many happy days, and full contentment in all your Roial Designs, we humbly take our leave, and rest,

Sterling, March 5.
1638.

Your Majesty's humble Servants,
and faithful Subjects,

TRAQUAIRE,

ROXBOROUGH.

There was also a publick Letter written by the Council to the Marquess, dated at Sterling the 5th of March, sent by Sir John Hamilton, informing the Marquess, ' That they did find the Subjects Fears and ' Stirs to increase since the last Proclamation, and appointed the Council to meet then to consult upon the growth of publick Evils, and ' Remedies

Remedies thereof. After the Council had spent four days in advising, they resolved to send Sir *John Hamilton*, one of their number, with a Letter from them to his Majesty, to whom they have imparted their Opinions and Reasons of the same Publick Ills, and Remedies of the same, to be represented to his Sacred Majesty, because the Business is so weighty and important, that in their Opinion the Peace of the Country was never in so great hazard; they have thought fit to recommend the Business to your Lordships consideration.

14 *Caroli.*

Signed by the same Privy-Councillors, whose Hands were to Sir *John Hamilton's* Instructions.

After Sir *John Hamilton's* arrival at the Court at *Whitehall*, and having presented to his Majesty what was committed to his trust and care, his Majesty consulted with his Inward Council, as to the Scottish Affairs, and resolved to send Marquess *Hamilton* as High-Commissioner to *Scotland* for that Service, hoping by such an Authority to quiet the Fury of the People; and Sir *John Hamilton* was immediately dispatched again to *Scotland*, to give notice of the King's Resolution, and that his Majesty's Pleasure should be further known when his High-Commissioner came down.

The Covenanters not long after the Lord Justice Clerk his arrival at Court, made their Application to the *Scottish* Lords then at Court, complaining of the Privy-Council for harsh usage; and withal sent up their Grievances, signed by *Roths, Cassils, Montrose*, to the effect following.

Articles for the present Peace of the Kirk and Kingdom of Scotland.

IF the Question were about such Matters as did come within the compass of our own Power, we would be ashamed to be importunate, and should be very easily satisfied, without the smallest trouble to any; but considering that they are the Matters of *God's Honour*, of the Kingdom of *Christ*, and the Peace of our *Souls*, against the *Mystery of Iniquity*, which we clearly perceive to have bin unceasingly working in this Land since the *Reformation*, to the ruin of *True Religion* in the end: it cannot stand with our Duty to God, and to our King, to our Selves and Posterity, to crave or be content with less than that which the Word of God, and our Confession of Faith doth allow, and which may against our Fears establish Religion afterwards.

The eight Articles of Grievances proposed by the Covenanters.

1. The discharging of the *Service-Book*, the Book of *Canons*, and of the late *High-Commission*, may be a part of the satisfaction of our humble Supplications, and just Complaints; which therefore we still humbly desire: but that can neither be a perfect Cure for our present Evils, nor can it be a preservation in time to come.

When it is considered what hath bin the Troubles and Fears of his Majesty's most Loial Subjects from the *High Commission*, what is the Nature and Constitution of that Judicatory; how prejudicial it proves to the lawful Judicatory of the Kirk and Kingdom; how far

it

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it endangers the Consciences, Liberties, Estates, and Persons of all the Lieges, and how easily and far more contentedly all the Subjects may be kept in Order and Obedience to his Majesty's Just Laws, *without any terror of that kind*, We look that his Majesty's Subjects, who have used to obey according to the Laws, shall be altogether delivered from the High-Commission, as from a Yoak and Burden, which they feel and fear to be more heavy than they shall be ever able to bear.

3. Remembring by what means the *Articles of Perth* were introduced; how strangely, and with what opposition they were carried in the Assembly; upon what Narrative they were concluded; how the *Ratification* in Parliament was not desired by the Kirk, but earnestly supplicated and protested against; how they have bin introductory of the *Service-Book*, whereof they are now become Members, and in their nature *make way for Popery*, &c. Whatsoever hath bin the Intentions of the Urgers, and withal, what Troubles and Divisions they have caused these *twenty Years* in this *Kirk and Kingdom*; and what Jealousies between the King's Majesty and his Subjects, without any Spiritual Profit or Edification at all; as we can see no reason why they should be urged by Authority, so can we not find but we shall be more unable to digest them than in the beginning, when we had not as yet tasted and known how bitter and unwholsome they were.

But for further satisfaction, see the rest of these Articles in *Hamilton's Memoirs*, p. 40, 41.

Before the Marquess begun his Journey from *London*, his Majesty called to him the Arch-Bishop of *Canterbury* and *St. Andrew's*, also the Bishop of *Galloway*, *Brechin*, and *Ross*, into his Closet at *Whitehall*, and the King declared unto them the choice he had made of the Marquess, whom he intended to send to *Scotland*, with the Character of *High-Commissioner*, for establishing the Peace of the Country, and the Good of the Church. And upon the 7th of *May*, Letters were sent into *Scotland*, giving notice of the King's Resolution; and the Marquess wrote to his Friends and Dependors to meet him the 5th of *June*.

May the 16th, the Marquess received his Instructions to the effect following.

C. R.

May 16.
The substance
of the Mar-
quess's Instru-
ctions relating
to his Com-
mission.

BEfore you publish the Declaration which We have signed, you shall require all the Council to sign it; and if you find that it may conduce to Our Service, you shall make all the Council swear to give their best assistance in the execution of the same; but this of putting them to their Oaths, We leave to your discretion to do as you shall find occasion: But if you shall find it fit to put them to their Oaths, those that refuse, must be dismissed the Council till Our further Pleasure be known.

We give you power to cause the Council to sit in whatsoever place you shall find most convenient for Our Service, *Edinburgh* only excepted, and to change the meeting thereof as often as occasion shall require.

You

' You may labour to prepare any of the Refractory Persons to
' conceive aright of Our Declaration before it be published, so that
' it be privately and underhand.

' If any Protestation be made against Our Declaration, the Prote-
' testers must be reputed Rebels, and you are to labour to appre-
' hend the chiefeft of them.

' If Petitions be presented, to demand further satisfaction than
' that we have already given by Our Declaration, you are to receive
' them, and to give them a *bold Negative*, both in respect of the
' Matter and the Form, as being presented from a Body which you
' are no ways to acknowledge.

' You must admit of no Petition against the five Articles of *Perth*,
' but for the present you are not to press the exact execution of
' them.

' When-ever the Town of *Edinburgh* shall depart from the *Cove-*
' *nant*, and petition for Our Favour, We will, That you bring back
' the Council and Session to it.

' All Acts of Council that enjoin the use of the New *Service-*
' *Book* are to be suspended, and to be of no force hereafter.

' You are to cause insert six weeks in Our Declaration for the
' delivery up of the *Covenant*, and if you find cause, less.

' You shall declare, That if there be no sufficient Strength with-
' in the Kingdom to force the Refractory to Obedience, Power
' shall come from *England*, and that my Self will come in Person
' with them, being resolved to hazard my Life, rather than to suffer
' Authority to be contemned.

' You may likewise declare, (if you find cause) That as We ne-
' ver did, so by God's Grace We never will stop the course of Ju-
' stice by any private Directions of Ours, but will leave Our Lords
' of Session, and other Judges, to administer Justice, as they will
' be answerable to God and Us.

' If you cannot (by the means prescribed by Us) bring back the
' Refractory and Seditious to due Obedience, We do not only give
' you Authority, but command all Hostile Acts whatsoever to be
' used against them, they having deserved to be used no otherwise
' by Us but as a Rebellious People: For the doing thereof, We
' will not only save you harmless, but account it as acceptable Ser-
' vice done Us.

And on the 20th of *May* he received his Commission as followeth.

CAROLUS Dei Gratia Magnæ Britanniae, Franciae, & Hiberniae Rex,
Fideique Defensor: Omnibus probis hominibus suis ad quos
presentes literae pervenerint, salutem. Sciatis nos considerantes
magnos in hoc Regno nostro Scotiae non ita pridem exortos tumultus,
ad quos quidem componendos, multiplices Regiae nostrae voluntatis
declarationes promulgavimus, quae tamen minorem spe nostra effe-
ctum hactenus sortitae sunt: Et nunc statuentes, ex pio erga dictum
antiquum Regnum nostrum affectum, ut omnia gratiose stabiliantur
& instaurentur, quod (per absentiam nostram) non alia ratione com-
modius effici potest, quam fideli aliquo Delegato constituto, cui po-
testatem credere possumus tumultus ejusmodi consopendi, atque
officia prestandi, quae in bonum & commodum dicti antiqui Regni
nostri

14 Caroli.

May 20.
The King's
Commission
to Marquess
Hamilton, under
the Great Seal
of England.

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nostri eidem Delegato nostro imperare nobis videbitur : Cumq; satis compertum habeamus obsequium, diligentiam, & fidem predelicti nostri consanguinei & consilarii Jacobi Marchionis Hamiltonii, Comitis Arraniæ & Cantabrigiæ, Domini Aven & Innerdail, &c. eundemque ad imperata nostra exequenda sufficienter instructum esse : Idcirco fecisse & constituisse, tenoreque presentium facere & constituere prefatum predilectum nostrum consanguineum & consiliarium Jacobum Marchionem de Hamilton, &c. nostrum Commissionarium ad effectum subscriptum : Cum potestate dicto Jacobo Marchioni de Hamilton, &c. dictum Regnum nostrum adeundi, Ibidemq; prefatos tumultus in dicto Regno componendi, aliæque officia a nobis eidem committenda in dicti Regni nostri bonum & commodum ibi prestandi : Eoque consilium nostrum quibus locis, & temporibus ei visum fuerit convocandi, ac rationem & ordinem in premisis exequendis servandum declarandi & prescribendi : Et quaecunque alia ad Commissionis hujus capita pro commissa ipsi fide exequenda, eandemque ad absolutum finem perducendam, & prosequendam conferre possunt tam in Consilio quam extra Consilium nostro Nomine efficiendi & prestandi : Idque similiter & adeo libere acti Nos in Sacrosancta Nostra Persona ibidem adessemus. Et hac presenti nostra Commissione durante Nostra Beneplacito duratura ac semper & donec eadem per nos expresse inhibeatur In cujus rei testimonium presentibus magnum Sigillum nostrum apponi precepimus. Apud castrum nostrum de Windfore vigesimo die mensis Maii, anno Domini millesimo sexcentesimo trigesimo octavo, & anno Regni nostri decimo quarto.

Per Signatum manu S. D. N. Regis superscriptum.

At the same time those *Bishops* who stayed in *Scotland*, sent up their Complaints and Grievances also to such Bishops of *Scotland* as were at Court, to the effect following.

Articles of Information to Mr. Andrew Learmouth for my Lord Arch-Bishop of St. Andrew's, the Bishop of Ross, &c. And in their absence for my Lord Arch-Bishop of Canterbury his Grace.

The Bishops
Articles of In-
formation to
other Bishops
at London.

1. ' **Y**OU shall shew their Lordships how they have changed the Moderator of the Presbytery of *Edinburgh*, and are going on in changing all the Moderators in the Kingdom.
2. ' How they have abused Dr. Ogstone the 9th of *May* in *Edinburgh*; Mr. George Hannay at *Torphichen* the 6th of *May*; Dr. Lammond at *Marckinch* the 9th of *May*; Mr. Robert Edward at *Kirk-michael*, whom *Kilkerni* is forced to entertain at his own House.
3. ' That the Presbytery of *Haddington* have given Imposition of Hands to Mr. John Ker's Son to be his Colleague without the knowledge of the Bishop; and likewise the Presbytery of *Kircaldy* to Mr. John Gillespy's Son, to the Church of the *Weems*; and the Presbytery of *Dumfrieze* to one Mr. John Wyer to the Church of *Morton*, within two miles of *Drumlanerick*; and that they of *Dumfermling* have admitted Mr. Samuel Row (a Minister banished from *Ireland*) to be Helper to Mr. Henry Macgill; and they of *Aire* Mr. Robert Blair to be Helper to Mr. William Annand; and that the Town of *Dumfrieze* have made choice of Mr. James Hamilton to be their Minister; and

' the

the Town of *Kirkudbright* one Mr. *John Macklannon*, all of them banished from *Ireland*; and Mr. *Samuel Rutherford* is returned, and settled in his Place; and they intend to depose Mr. *John Trotter*, Minister of *Darlington*: and how they intended to use the Regents.

4. That the Council of *Edinburgh* have made choice of Mr. *Alex. Henderson* to be Helper to Mr. *Andrew Ramsey*, and intend to admit him without the Advice or Consent of the Bishop.

5. That the Ministers of *Edinburgh* who have not subscribed the Covenant are daily reviled and cursed to their faces, and their Stipends are withheld, and not paid; and that all Ministers who have not subscribed, are in the same case and condition with them.

6. That they hound out rascally Commons on Men who have not subscribed the Covenant; as Mr. *Samuel Cockburn* did one *John Shaw* at *Leith*.

7. That his Majesty would be pleased by his Letter to discharge the Bishop of *Edinburgh* to pay any Prebends Fee to those who have subscribed the Covenant; as also by his Royal Letter to discharge the Lords of Session to grant any Process against the Bishop for their Fees.

8. That his Majesty would be pleased in the *Articles of Agreement* with the Nobility, to see Honest Men, who shall happen in this tumultuous time to be deposed from their Places, restored, and settled in them; and others that are violently thrust in, removed; and that the Wrongs done to them be repaired.

9. That if it shall happen his Majesty take any violent course for repressing these Tumults and Disorders, (which God forbid) that in that case their Lordships would be pleased to supplicate his Majesty that some speedy course may be taken for securing the Persons of those Honest Men who stand for God and his Majesty.

Signed

Da. Edin.

Ja. Dumblanen.

Ja. Lismoren.

Ja. Hannay.

Da. Mitchel.

Da. Fletcher.

The *Marquess* having received his *Instructions* and *Commission*, took leave a few days after of the *King*; and his Majesty order'd him to write often to Him, and to the Arch-Bishop of *Canterbury*, (being the only English Person entrusted with the Secrets of the Scottish Affairs.)

Saturday *May 26.* the *Marquess* began his Journey, and on the 3d of *June* he arrived at *Berwick*, where the Earl of *Roxborough* met him who told him in what disorder all People were, and how small hopes there remained of prevailing upon the Grounds he was to go on, for that they would never give up the Covenant; that they would have the *Articles* of *Perth* abolished; Episcopacy limited, so that it should be little more than a Name. And if these things were not granted them, and a General Assembly and Parliament suddenly called, they would call an Assembly themselves before the great Crouds at *Edinburgh* were scattered. But the *Marquess* resolved to go on, and try what his Authority as *High Commissioner* would do.

The *Marquess* when he came to *Berwick*, expected a great Appearance of Noblemen and others to attend him, as the *King's High-*

The *Marquess* takes leave of the *King*.

The *Marquess* arrives at *Berwick*.

Meets with ill News of Discouragement.

Com-

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Commissioner to Hally-Rood House at Edinburgh, and especially his own Kindred and Relations, Attendants and Vassals; but all failing, except some very few who had not subscribed the Covenant, and they inconsiderable: for the Tables of the *Covenanters* required that none who had taken the *Covenant* should give any attendance upon the *Marquess*: Yet when he came near *Dalkeith*, he was Nobly and Honourably received and conducted to *Dalkeith* by all the Secret Council, most of the Lords of the Session, who are the Judges of the Law, great Troops of the Nobility and Gentry who had not subscribed their Covenant.

A little after the *Marquess's* arrival at *Dalkeith*, the Citizens of *Edinburgh* sent certain *Commissioners* unto him with a Supplication, That he would be pleased to repair to the King's Palace at *Hally-Rood House*, where they might more conveniently attend his Grace's Directions. To which the *Marquess* returned this Answer:

'That if they would undertake to be Masters and Governors of their own City; that their Citizens would behave themselves as good and duriful Subjects; and take Order that the Multitudes now present in their City, who called themselves *Covenanters*, should do so too; and that the Guards about the Castle of *Edinburgh* should be dismissed and discharged, then he would within a day or two repair to the King's Palace at *Hally-Rood House*, otherwise not: for that he did hold it not agreeable to the King's Honour, that he his Majesty's *Commissioner and Council*, should reside at the said Palace, which is situated at the one end of the City, when the Castle seated at the other end of the same, should be blocked up with Guards.' All which these *Commissioners* undertook to perform, and by their words desired to approve themselves most loyal Subjects, hoping to clear themselves from many Aspersions laid upon them, when his Grace would be pleased to hear and examine their Proceedings.

Whereupon the *Marquess*, according to his Promise, did remove himself from *Dalkeith* to the King's Palace at *Hally-Rood House*, attended by all the Secret Council, abundance of Nobility, Gentry, and others, and about two or three miles from *Edinburgh* was met with the whole Body of the Nobility and Gentry of the *Covenanters* then resident at *Edinburgh*, who were all mounted on Horseback, and consisted of divers thousands; and besides, at a nearer distance from *Edinburgh*, he was attended by Ministers on foot, consisting of many hundreds.

The *Marquess* being settled at *Hally-Rood House*, with the Assistance of the King's Council, he desired the *Covenanters* to dismiss their great Multitudes, which accordingly they did. And then the two main Propositions which he offered to their consideration were these.

First, *What they should expect to hear in the King's Name for accommodating their Grievances.*

Next, *What might be expected from them for returning to their former obedience, especially in renouncing and delivering up their late Covenant.*

Both which Propositions they received: but nothing but a General Assembly and a Parliament would give satisfaction; and thereupon new Guards were clapt upon *Edinburgh* Castle, and the Guards and Watches of the City multiplied.

The Preachers advised the People to take heed of crafty Propositions; and when the *Marquess* designed to go to the King's Chappel to hear Divine Service and Sermon at *Hally-Rood House*, they sent him word not

not to read the English Service-Book, and nailed up the Organs; and the Ministers Covenanters proceeded so far, as to write a Letter to the Marquess, and every one of the Council, admonishing them to subscribe their Covenant; which Letter followeth in these words.

May it please your Lordship,

WE the Ministers of the Gospel, convened at this so necessary a Time, do find Our selves bound to represent, as unto all, so in special unto your Lordship, what comfortable experience We have of the wonderful favour of God, upon the renewing of the Confession of Faith and Covenant; what Peace and Comfort hath filled the Hearts of all God's People; what Resolutions and Beginnings of Reformation of Manners are sensibly perceived in all parts of the Kingdom, above any measure that ever We did find or could have expected; how great Glory the Lord hath received thereby, and what confidence We have (if this Sun-shine be not eclipsed by some sinful Division or Defection) that God shall make this a blessed Kingdom, to the contentment of the King's Majesty, and joy of all his good Subjects, according as God hath promised in his good Word, and performed to his People in former Times: And therefore we are forced from Our Hearts, both to wish and entreat your Lordship to be Partaker and Promover of this Joy and Happiness by your subscription, when your Lordship shall think it convenient. And in the mean while, that your Lordship would not be sparing to give a free Testimony to the Truth, as a timely and necessary expression of your tender Affection to the Cause of Christ, now calling for help at your hands: Your Lordship's profession of the true Religion as it was reformed in this Land, the National Oath of this Kingdom sundry times sworn and subscribed, obliging us who live at this time; the Duty of a good Patriot, the Office and Trust of a Privy-Counsellor; the present Employment to have place amongst those that are first acquainted with his Majesty's Pleasure; the consideration that there is the time of trial of your Lordships affection to Religion; the respect which your Lordship hath unto your Fame both here and hereafter, when things shall be recorded to Posterity; and the Remembrance, that not only the eyes of Men and Angels are upon your Lordship's Carriage, but also that the Lord Jesus is a secret Witness now to observe, and shall be an open Judge hereafter to reward and confess every Man before his Father, that confesseth him before Men: All of these, and each of them, besides your Lordship's personal and particular Obligations to God, do call for no less at your Lordship's hands, in the cause of so great and singular Necessity. And we also do expect so much at this time, according as your Lordship at the hour of Death would be free of the Terror of God, and be refreshed with the comfortable remembrance of a word spoken in season for Christ Jesus, King of Kings, and Lord of Lords.

The Marquess perceiving this violent Humour in the People, not to hear of any Proclamations, unless with the discharge of the Service-Book, and Book of Canons, &c. durst not adventure to publish his Majesty's Declaration, knowing it would be affronted with a Protestation; whereupon the Marquess forbore the same, and gave the King an account how he found things; letting the King know, That he must either resolve to yield to all their Demands, or hasten down his Fleet quickly, with Land Souldiers in it; and to put Souldiers in-

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to *Berwick* and *Carlisle*, and to resolve to follow in Person with a Royal Army; yet withal moved his Majesty, That he would consider how far in his Wisdom he would connive at the madness of his own poor People, and how far in Justice he would punish their Folly.

On the 15th of *June* the Marquess received an Answer from the King, to the Account which he sent to his Majesty from *Berwick*, dated at *Greenwich*, *June* 11. to the effect following.

HAMILTON,

I Expect not any thing can reduce that People to Obedience, but Force only: In the mean time your care must be how to dissolve the Multitude; and (if it be possible) to possess your self of my Castles of *Edinburgh* and *Sterling*, (which I do not expect); and to this end I give you leave to flatter them with what hopes you please, so you engage not me against my Grounds, and in particular, that you consent neither to the Calling of Parliament, nor General Assembly, until the Covenant be dissolved and given up, your chief end being now to win time until I be ready to suppress them.

But when I consider that not only now my Crown, but my Reputation for ever lies at Stake; I must rather suffer the first, that time will help, than this last, which is irreparable. This I have written to no other end, than to shew you, I will rather die than yield to those impertinent and damnable demands (as you rightly call them); for it is all one as to yield to be no King in a very short time. So wishing you better success than I can expect, I rest,

Greenwich, *June* 11,
1638.

Your assured constant Friend,

C. R.

POSTSCRIPT.

As the Affairs are now, I do not expect that you should declare the Adherers to the Covenant Traitors, until (as I have already said) you have heard from Me that my Fleet hath set sail for *Scotland*, tho your six weeks should be elapsed. In a word, Gain time by all the honest means you can, without forsaking your Grounds.

But all the Ministers hearing the Covenant must be given up, or no Treaty made, their Pulpits did ring with it, and all declared they would never quit the Covenant but with their Lives. A Protestation was also resolved on when-ever the Declaration should be published; which made it be delayed a little longer, and the Marquess writ to the King not to proceed in his Warlike Preparations till things were more desperate. To which Letter, the Marquess afterwards received this Answer.

1. That he had gained a considerable Point, in making the heady Multitude begin to disperse.
2. That he will take his advice to stay publick Preparations for Force, but in a silent way; but (by your leave, saith the King) I will not leave to prepare, that I may be ready upon the least advertisement.

On

The Rude Covenanters rail against the Marquess.

On the 16th of June, the Covenanters came and presented their Petition to the Marquess, craving a present redress of their Grievances, for *they would be no longer put off by delays*; and desired that he would propose the Matter to the Council, and give them a speedy Answer. To which the Marquess replied, That *he did resolve to call both an Assembly and Parliament for the redress of all Grievances*. They went away no way satisfied with this Answer; and the Marquess found all the Lords of the Council inclined to the granting of what the Covenanters demanded; so that he durst call no Council about it, lest they should have sided with the Covenanters. Of which he advertised his Majesty; and that they pressed him to represent to his Majesty, That the Covenant was not illegal; and that if his Majesty would allow of the Explanation of the Bond of *Mutual Defence*, which they offered, *that they meant not thereby to derogate any thing from the King's Authority*, and so all things might be settled without more trouble, either to the King or Country.

14 Caroli.

The Covenanters declare they will be no longer delayed.

The Marquess fears the Council will incline to the Covenanters; And informs the King thereof.

And of the Explanation of the Covenanters.

And as to the Explication of the Covenant, this Draught following was made, by the Arch-Bishop of St. Andrew's.

WE the Noblemen, Barons, Burgeses, Ministers, and others, that have joined in a late Band or Covenant for the maintaining of the true Religion and Purity of God's Worship in this Kingdom, having understood that Our Sovereign Lord the King's Majesty is with this Our doing highly offended, as if We thereby had usurped his Majesty's Authority, and shaken off all Obedience to his Majesty, and to his Laws: for clearing Our selves of that Imputation, do hereby declare, and in the presence of God Almighty, solemnly protest, That it did never so much as enter into Our thoughts, to derogate any thing from his Majesty's Power and Authority Royal, or to disobey and rebel against his Majesty's Laws: And that all Our proceedings hitherto by Petitioning, Protesting, Covenanting, and whatsoever other way, was and is only for the maintaining of the true Religion by us professed; and with express reservation of Our Obedience to his most Sacred Majesty, most humbly beseeching his Majesty so to esteem and accept of Us, that he will be graciously pleased to call a National Assembly and Parliament for removing the Fears We have not without cause (as We think) conceived, of introducing in this Church another form of Worship than what We have bin accustomed with; as likewise for satisfying Our just Grievances, and the settling of a constant and solid Order to be kept in all time coming, as well in the Civil as Ecclesiastical Government: Which if We shall by the Intercession of your Grace obtain, We faithfully promise (according to Our bounden Duties) to continue in his Majesty's Obedience, and at Our utmost Powers to procure the same during Our Lives.

The Explication.

The Marquess sent again a new Dispatch to the King, and gave his Majesty a large account of the Explanation which was offered to that Part of the Covenant, by which they were bound to *Mutual Defence*, and to which his Majesty wrote this following Answer.

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Greenwich, 25 of June, 1638.

The substance
of the King's
Answer to the
Explanation.

AS concerning the Explanation of their Damnable Covenant, (whether it be with or without Explanation) I have no more Power in Scotland, than as a Duke of Venice; which I will rather die than suffer: Yet I commend the giving ear to the Explanation, or any thing else to win time, which now I see is one of your chiefest Cares, wherefore I need not recommend it to you. And for their calling a Parliament, or Assembly, without Me, I should not much be sorry, for it would the more loudly declare them Traitors, and the more justify My Actions: Therefore in My mind, My Declaration would not be long delayed; but this is a bare Opinion, and no Command.

The Marques threatened the *Covenanters* to leave them, and would beg liberty of the King for leave to wait on his Majesty with their Desires, and return them an answer within three Weeks or a Month: But the true Reason that moved him to desire Permission to go up, was that thereby he should gain so much time, and see in what forwardness the King's Preparations were; but chiefly to try what he could prevail about establishing the *Confession of Faith*, which had passed in Parliament 1567, hoping that it might give full satisfaction to all, that there should be no Innovation in Religion.

The King gives
the Marques
leave to come
to Court, and
to bring with
him all their
Demands.

And accordingly the King, by his Letter dated at *Greenwich* the 29th of *June*, gives him leave to come up, and to bring with him all the Demands of the *Covenanters*, whereby to gain more time; and advised him not to mediate for any thing that is against his Grounds, and that no more Subscriptions be urged upon any, especially of the Council or Session.

Before the Marques took Journey, he did on the 4th of *July* present the King's Declaration to the Council, and got it signed by them all: And an Act passed, That the Subjects ought to rest satisfied with it, and was immediately sent to the Market-Cross and Proclaimed; but notwithstanding it met with a Protestation; which Declaration and Protestation followeth.

Greenwich, June 28. the King's Declaration.

CHARLES by the Grace of God, King of *Scotland, England, France, and Ireland*, Defender of the Faith. To Our Lovits, Heralds, Messengers, Our Sheriffs in that Part conjunctly and severally, specially constitute, greeting.

The King prom-
iseth to call
a free Assem-
bly, and a Par-
liament, and
discharge all
Acts of Coun-
cil concerning
the *Service-
Book*.

INASMUCH as We are not ignorant of the great Disorders which have hapned of late within this Our ancient Kingdom of *Scotland*, occasioned, as is pretended, upon the introduction of the *Service-Book*, *Book of Canons*, and *High-Commission*, fearing thereby Innovation of Religion and Laws. For satisfaction of which Fears, We well hoped that the two Proclamations of the eleventh of December,

December, and the nineteenth of February, had bin abundantly sufficient. Nevertheless finding that Disorders have daily so increased, that a powerful rather than a perswasive way, might have bin justly expected from Us; yet We out of Our innative indulgence to Our People, grieving to see them run themselves so headlong into ruin, are graciously pleased to try it by a fair way We can reclaim them from their Faults, rather than to let them perish in the same; and therefore once for all We have thought fit to declare, and hereby to assure all Our good People, that We neither were, are, nor by the Grace of God ever shall be stained with Popish Superstition; but by the contrary, are resolved to maintain the true Protestant Religion, already professed within this Our Ancient Kingdom. And for further clearing of Scruples, We do hereby assure all Men, That We will neither now, nor hereafter, press the practice of the Service-Book, or the foresaid Canons, nor any thing of that nature, but in such a fair and legal way as shall satisfy all Our loving Subjects, That We neither intend Innovations in Religion or Laws; and to this effect have given order to discharge all Acts of Council thereanent. And for the High-Commission, We shall so rectify it, with the help and advice of Our Privy-Council, that it shall never impugn the Laws, nor be a just Grievance to Our Loyal Subjects; and what is further fitting to be agitated in General Assemblies and Parliament, for the Good and Peace of the Kirk, and peaceable Government of the same, in establishing of the Religion presently professed, shall likewise be taken into Our Royal Consideration, in a free Assembly and Parliament, which shall be indicted and called with Our best convenience: And We hereby take God to Witness, That Our true meaning and intention is, Not to admit of any Innovations, either in Religion or Laws, but carefully to maintain the purity of Religion already professed and established, and no ways to suffer Our Laws to be infringed. And though We cannot be ignorant, that there may be some disaffected Persons, who will strive to possess the Hearts of Our good Subjects, that this Our Gracious Declaration is not to be regarded; yet We do expect that the behaviour of all Our Good and Loyal Subjects will be such, as may give testimony of their Obedience, and how sensible they are of Our Grace and Favour, that thus passeth over their Misdemeanours, and by their future carriage make appear, that it was only fear of Innovation that hath caused the Disorders which have hapned of late within this Our Ancient Kingdom, and are confident that they will not suffer themselves to be seduced and misled, to misconstrue Us or Our Actions, but rest heartily satisfied with Our Pious and Real Intentions, for maintenance of True Religion and Laws of this Kingdom. Wherefore We require, and heartily wish all Our good People carefully to advert to these dangerous Suggestions, and not to permit themselves blindly, under pretext of Religion, to be led in Disobedience, and draw on infinitely, to Our grief, their own Ruin, which We have and still shall strive to save them from, so long as we see not Royal Authority shaken off; and most unwillingly make use of that Power which God hath endued Us with, for reclaiming of disobedient People.

Per Regem.

The

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Protestation
against the
King's Decla-
ration, dated
Jun. 28. 1638.

*The PROTESTATION of the Noblemen, Barons, Gentle-
men, Burrows, Ministers, and Commons, &c.*

WE Noblemen, Barons, Gentlemen, Burrows, Ministers and Com-
mons, That whereas We his Majesty's true and loyal Subjects,
who have ever esteemed it our greatest happiness to live under a
Religious and Righteous King, and our greatest Glory to testify our
best Affections to our gracious Sovereign, have been in his Majesty's
absence from his Native Kingdom *heavily pressed* for a long time past,
and especially of late, with divers *Innovations*, which both in them-
selves, and in the way wherein they have been urged, do manifestly
tend to the prejudice of the King's Honour, and of our Religion,
Laws and Liberties; And by which We have been brought to such
extremity, that there was no way left betwixt the Rock of *Excommu-
nication*, and the high pain of *Rebellion* on the one part, and the *de-
sperate danger* of forsaking the *Way of True Religion*, and the *breach
of our Covenant with God* on the other, but to present our Case, and
present our Supplications to the *Lords of Secret Council*, that being
equally pondered by them, they might either be answered by them-
selves, or by their Recommendation might ascend to his Majesty's own
Consideration: And therefore We did in all humble manner to this
effect supplicate their Lordships. We were not willing (for the mo-
dest following of our Supplications) to obey their Directions in
choosing Commissioners for the great number of Supplicants, who
flocked together from all parts of the Kingdom; were careful to or-
der our selves in all quiet and Christian carriage, and against the ma-
ny and tedious delays did wait for a long time with very great Pa-
tience, till at last they were pleased to receive our Supplications,
Complaints and Bills; and conceiving them to contain weightier
matters than could by themselves be determined, they did promise
and undertake to represent and recommend the same, according to
their more than ordinary importance, unto his Majesty's Royal
Consideration, and to report his Majesty's Answer.

While his Majesty's good Subjects of all ranks throughout the whole
Kingdom, had their minds weakned, and their hearts filled with the
expectation of a *gracious and satisfactory Answer*, worthy his Majesty's
pious and equitable Disposition; in the month of *February* last, incon-
tinent a rumour flies through the Country, and fills all Ears, That the
Lords of his Majesty's *Secret Council* were commanded to make such
a Proclamation concerning the *Service-Book*, Book of *Canons*, and the
Peaceable Meetings of his Majesty's good Subjects in time coming, as
we were perswaded to have been procured by the secret working, and
malignant misinformation of our Adversaries, seeking for their own
private ends, without respect to his Majesty's Honour, and welfare of
this Kirk and Kingdom, to stop the course of our legal Proceedings,
and to escape their own due Censure; and therefore intending to
make known to the Lords of the *Secret Council*, what was noised con-
cerning the *Proclamation*, how far the whole Kingdom had been by
some sinister misinformation frustrate of their hopes, and their con-
stant desire to have some course taken by their Lordships Advice, how
his Majesty being further informed, might deliver his good Subjects
from so great Grievances and Fears, and establish a sure Peace
in

in this Country for the time to come: we found our selves tied by order of Law, to decline those against whom we had made our Complaint, unless we would admit our Judges to be parties; and in case our *Declinator* should not be accepted, we behoved to protest that we might have immediate recourse to the King himself, &c.

14 Caroli.

Thereafter, in the month of *March*, finding by the aforesaid Proclamation the Innovations supplicated against were approven, our lawful Proceedings condemned, our most necessary *Meetings prohibited*, there being no other way left unto us, we were necessitated to renew the *National Covenant* of this Kirk and Kingdom, thereby to reconcile us to God, provoked to wrath against us, by the breach of his Covenant within this Land, to clear our Sovereign's mind from all jealousies and suspicions, arising from our Adversaries misinformations of our intentions and carriage, and so to make way for his acceptance of our humble Supplications, and grant of their lawful remedies, to guard this Land in defence of Religion, Authority and Liberty, against inward division, and external violences. And that our actions might be answerable to our holy Profession, We afterwards drew up an humble Supplication, containing our *Grievances*, and desires of the ordinary remedies thereof, to have been delivered to the King himself: in the mean time, we were directed by those, who were intrusted by his Majesty, to attend his Declaration here in *Scotland*, which would free us from all fears of *Innovations* of Religion, and prove satisfactory. And lest for want of true information of our just Grievances and Desires, it should fall out otherwise, We expressed to them with the greatest modesty we could, our Desires in some few *Articles*, and with great patience have attended his Majesty's Pleasure there-ament; and all this Month by-gone being frequently convened to hear the same delivered by his Majesty's Commissioner, the Right Noble Lord, *James Marquess of Hamilton*, &c. We presented a new *Petition* to his Grace; as his Majesty's Commissioner, craving most humbly the *indiction of an Assembly and Parliament*, as the only Remedies thereof. Like-as finding a Misinformation or mistake of our Covenant with God, as if it had been an *unlawful Combination*, to be the main hindrance of obtaining our Desires in a new *Supplication*, We have fully removed that *Impediment*, renewed our Desires of those *supreme Judicatories*, to be indicted with diligence for settling of the Kirk and Kingdom; but being only answered with delays after these *nine months attendance*, and with this *Proclamation*, that contained his Majesty's Declarations of his Pious Intentions, not to admit any *Innovations in Religion or Law*, nor any stain of *Popish Superstition* but on the contrary, to be resolved to maintain the true *Christian Religion* professed in this Kingdom; which We were ever so far from calling into question, as in our Supplications, Complaints and Bills, We used the same as one cause of our Desires, one ground of our Confidence of a *gracious Answer*, and Argument of our *Adversaries* malignant Misinformation of so Religious a King, and now most humbly (on bended Knees and bowed Hearts) thank our gracious Sovereign for the same, wishing and praying the Lord of Heaven truly and fully to inform his Majesty how far these Books, Judicatories, and all our other Evils and Grievances, are full of *Idolatrous Superstitions* and *Popish Errors*, destructive of the Reformation of Religion in this

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this Land, and of the Laws and Liberties of this Church and Kingdom, and so directly contrary to his Majesty's Pious Intention and Declaration: Yet seeing that no *Proclamation* could sufficiently remove the present Evils, nor settle our Fears, nor secure us from the *re-entry of any Evil or Innovation*, which it seemed to discharge, or prevent the like in time coming, nor satisfy our humble Supplications, craving the *Indiction of a free Assembly and Parliament*, as the only *Remedies* of our Evils, and means to prevent the like. And seeing this *Proclamation* doth not so much as make mention, or acknowledge any of our Supplications, Complaints and Grievances, or any just cause thereof, except under the name of the great increase of Disorders, Faults and Misdemeanors, but only our Fears of some future *Innovation of Religion or Laws*, occasioned only (as is pretended) by the Introduction of the *Service-Book*, Book of *Canons*, and *High-Commission*; which Fears his Majesty hoped to have been abundantly and sufficiently satisfied by his two former Proclamations, of the 9th of *December*, and the 19th of *February*, and by this his present Declaration, unless his Subjects be (under pretext of Religion) blindly led unto Disobedience, *doth misken*, pass over, and so in effect deny all our Supplications, Bills, Articles, and Desires, especially our *Complaints against the Prelats* our Parties. And that once for all, in a fair and persuasive way, even after the receipt of our last Supplication, clearing us from the Calumny of *unlawful Combination*, doth not disallow nor discharge any of the *Innovations* and Evils complained upon, but only assureth that his Majesty will not press their practice but in such a fair legal way as shall satisfy his Subjects of his Intentions; which (joined with the other clause, *allowing and confirming the Proclamation of the 19th of February*) evidenceth the liberty left to any Prelat or Persons to practise the same, and by all other fair ways to perswade others thereunto; and his Majesty's Resolution to press their practice in a fair and legal way, and also confirmeth the former Declaration, that the *Service-Book* is a ready mean to maintain the true Religion already professed, and to beat out all Superstition, and no ways to be contrary to the Law of this Kingdom, but to be compiled and approved for the universal use and edification of all his Majesty's Subjects; doth not abolish, but promise to rectify the *High-Commission*, with the Advice of his Privy-Council, implying the King's Power, with consent of his Council, to establish this or any Judicatory within this Kingdom, *without consent of the three Estates convened Parliament*, contrary to the fundamental and express Laws thereof; and by consequent with the like Reason to establish Laws and *Service-Books* without consent of the *Assembly and Parliament*; which is contrary to the *main ground of our Supplications* against the manner of their introduction; doth only promise to take into his Consideration in an Assembly and Parliament, which shall be called at his best convenience, while, as the evident and urgent necessity for settling the *Combustions*, threatening the total dissolution and desolation of this Church and State, excuseth Our incessant and importunate calling for these present Remedies; doth insinuate the continuance and execution of any pretended Laws for these Innovations in Worship, and Corruptions of Church-Government, and Civil Places of Church-men, which by our *Covenant* we have obliged Our selves to forbear, and the reestablishment of these Evils in

an Assembly and Parliament which he will call in his best convenience, to wit, for that end, and satisfying of his Subjects Judgments anent the *Service-Book* and Book of *Canons*, doth condemn our former Proceedings, even our *supplicating, complaining, protesting, and subscribing* of our *Covenant*, together with our continual Meetings, as great Disorders, increase of great Disorders, deserving justly a powerful rather than a perswasive way; a running headlong into Ruin; a perishing in our Faults; a blind Disobedience under pretext of Religion; and doth threaten and denounce, now once for all, if We be not heartily satisfied, and give testimony of our Obedience after this Declaration, but continue, as by our former Proceedings, to draw on our own Ruin, that although unwillingly, he must make use of that Power which God hath endued him with, for reclaiming so disobedient People.

Therefore We in our own Name, and in the Name of all who will adhere to the *Confession of Faith*, and *Reformation of Religion* within this Land, are forced and compelled out of our bounden Duty to God, Native Country, our King, our Selves, and our Posterity, lest our Silence should be prejudicial to so important a Cause, as concerns God's Glory and Worship, our Religion and Salvation, the Laws and Liberties of the Church and Kingdom, or derogatory to our former Supplications, Complaints, Protestations, Articles, and Proceedings, or unanswerable to our solemn Oath of our National Covenant with God, to declare before God and Man, and to protest,

Primo, That we do and will constantly adhere, according to our Vocation and Power, to the said Reformation in Doctrine, use of Sacraments, and Discipline, and that notwithstanding of any Innovations introduced therein either of old or late.

Secundo, We Protest we adhere to the Grievances, Supplications, and Protestations, given in at Assemblies and Parliaments, to our late Supplications, Complaints, Protestations, and other lawful Proceedings against the same, and particularly against the *Service-Book*, and *Book of Canons*, as main Innovations of Religion and Laws, and full of Popish Superstition, and so directly contrary to the King's Declaration, and against the *High Commission*, as a Judicatory established contrary to the Laws and Liberties of this Church and Kingdom, and destructive of other lawful Judicatories, which both in respect of the nature of it, and manner of Introduction, without consent of the three Estates in Parliament, cannot any ways be rectified, but absolutely discharged.

Tertio, We protest that we adhere with our Hearts to our Oath and Subscription of the *Confession of Faith*, the solemn *Covenant* betwixt God, this Church and Kingdom, and the particular Clauses therein expressed and generally contained; and to Our last *Articles* for the Peace of this Kirk and Kingdom, drawn out of it, and to all the matters therein contained, and manner therein of Remedy desired.

Quarto, We protest that this *Proclamation*, or Act of Council, or any other Act or Proclamation, or Declaration, or Ratification thereof, by Subscription, or Act, or Letter, or any other manner of way whatsoever, or any *Precondemnation* of our Cause or Carriage, before the same be lawfully heard and tried in the Supreme Judicatories of this Kirk and Kingdom, the only proper Judges to National Causes and

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Proceedings, or any Certification or Threatning therein denounced shall be no way prejudicial to the *Confession of Faith*, Laws and Liberties of this Kingdom, nor to our Supplications, Protestations, Complaints, Articles, lawful Meetings, Proceedings, Pursuits, Mutual Defences, nor to our Persons or Estates; and shall be no way disgraceful, either in Reality or Opinion, at Home or Abroad, to Us or any of Us. But on the contrary, any Letter, or Act, or Subscription of the Council, carrying the approbation of the Declaration, and condemnation of our Proceedings, *indicta Causa*, is and ought to be reputed and esteemed unjust, illegal, and null, as here before God and Man we offer to clear, and to verify both the justness of our Cause and Carriage, and the injustice of such Acts against Us, in the face of the first General Assembly of the Church and Parliament of Estates; unto whom, with all Solemnities requisite, We do publickly appeal.

Quinto, We protest, That seeing Our former Supplications, last Articles, and Our last Desire and Petition to his Majesty's Commissioner, which petitioned for a present Indiction of a free general Assembly and Parliament, according to the Law and Custom of all Nations, and of this Nation in the like case, to hear the Desire, ease the Grievances, and settle the Fears of the Body of the Church and Kingdom, are thus delaied, and in effect refused: To wit, once for all, till his Majesty's conveniency for the end contained in this Proclamation, that We continue by these Presents to supplicate his Majesty again and again for granting the same: and whatsoever trouble or inconveniency fall out in this Land in the mean time, for want of these ordinary Remedies, and by the practice of any of these Innovations and Evils, contrary to our Supplications, Articles and Confession, it be not imputed unto Us, who most humbly beg these lawful Remedies; but also that it is, and shall be lawful unto Us to defend and maintain the Religion, Laws and Liberties of this Kingdom, the King's Authority in defence thereof, and every one of Us one another, in that Cause, of maintaining the Religion, and the King's aforesaid Authority, according to our Power, Vocation, and Covenant, with Our best Counsel, Bodies, Lives, Means, and whole Strength, against all Persons whatsoever, and against all external and internal Invasion menaced in this Proclamation, like-as that in the great exigency of the Church, necessitating the use of the ordinary and lawful Remedies, for settling the Commotion thereof; it is and shall be leathsome unto Us to appoint, hold, and use the ordinary means, Our lawful Meetings and Assemblies of the Church, agreeable to the Laws of God, and practice of the Primitive Times of the Church, the Acts of the General Assemblies and Parliaments, and the Example of Our worthy Reformers in the like case.

Sexto, We protest, That Our former Supplications, Complaints, Protestations, Confessions, Meetings, Proceedings, and mutual Defences of one another in this Cause, as they are and were in themselves most necessary, and orderly means, agreeable to the Laws and practice of this Church and Kingdom, and in no wise to be stiled or accounted great Disorders, Misdemeanours, blind Disobedience, under pretext of Religion, and running headlong into ruin, &c. so they proceeded only from Conscience of Duty to God, Our King,

King, Native Country, and our Posterity ; and do tend to no other end, but to the preservation of the true Reformed Religion, the Confession of Faith, Laws and Liberties of this his Majesty's most Ancient Kingdom, and of his Majesty's Authority in defence thereof, and satisfaction of Our humble Desires, contained in Our Supplications, Complaints, and Articles ; unto the which we adhere again and again, as We would eschew the Curse of Almighty God, following the breach of his Covenant ; and yet We do certainly expect, according to the King's Majesty's accustomed Goodness and Justice, that his Sacred Majesty, after a true information of the Justice of our Cause and Carriage, will presently indict these ordinary Remedies of a Free Assembly and Parliament, to Our just Supplications, Complaints, and Articles, which may be expected, and used to be granted, from so just and gracious a King, towards most loyal and dutiful Subjects, calling for Redress of so pressing Grievances ; and praying heartily that his Majesty may long and prosperously reign over us.

Before the Marquess's departure, the *Covenanters* yielded to an Explication of their Covenant, by way of Supplication, as followeth.

To His Majesty's Commissioner :

The Supplication of the Noblemen, Barons, Burgeses, Ministers, and Commons, here attending his Majesty's Gracious Answer of Our former Petitions, Complaints, and Desires.

Humbly sheweth,

That whereas We expecting from your Grace, as his Majesty's Commissioner, a gracious Answer of Our former Supplications, Complaints, and just Desires, have presented to your Grace a Petition, humbly craving a free Assembly and Parliament, as the ordinary Remedy of our Grievances, and the only means to put this Kirk and Kingdom to quietness. It pleased your Grace to shew, that his Majesty, from his princely care of this Kirk and Kingdom, would be most willing to indict a free General Assembly, and call a Parliament, for those good Ends, but that your Grace, as his Majesty's Commissioner, hath conceived the Confession of Faith and Covenant, lately renewed by us his Majesty's Subjects, to be an unlawful Combination against Authority, thereby to cast off Our dutiful Obedience, and not a Covenant for maintaining of True Religion, of his Majesty's Person and Authority, and of the Laws and Liberties of the Kingdom. And we being most willing to remove that, as the main hinderance of the obtaining of Our Desires therefore, and for clearing our Loyalty, and vindicating our Selves from so great an Imputation, We do now in all humility remonstrate to your Grace, as his Majesty's Commissioner, and declare before God and Men, That we are heartily grieved and sorry that any good Man, but most of all Our dread Sovereign, should so conceive of Our doing. And that We were, and still are so far from any thought of withdrawing our Selves from our dutiful Subjection and Obedience to his Majesty's Government ; which by the descent, and under the Reign of 107 Kings, is most chearfully acknowledged by

Us

An. 1638.

Us and Our Predecessors, that We never had nor have any intention or desire to attempt any thing that may turn to the dishonour of God, or the diminution of the King's Greatness and Authority. But on the contrary, We acknowledge our Quietness, Stability, and Happiness, to depend upon the safety of the King's Majesty, as upon God's Vicegerent, set over Us for maintenance of Religion, and ministration of Justice, have solemnly sworn, not only Our mutual Concurrence and Assistance for the Cause of Religion, but also to the utmost of Our Power with our Means and Lives, to stand to the defence of Our dread Sovereign the King's Majesty, his Person and Authority, in the preservation and defence of the True Religion, Liberties, and Laws of the Kingdom. And therefore We his Majesty's Loyal Subjects, free from that and all other Imputations of that kind, most humbly beseech your Grace to esteem, That our Confession of Faith and Covenant to have bin intended, and to the largest testimony of our Fidelity to God, and Loyalty to our King, and that hinderance being removed, must still supplicate that your Grace would be pleased to indict a free General Assembly and Parliament, which will undoubtedly redress all our Evil, settle the Peace of the Kirk and Kingdom, and procure that chearfulness of Obedience which ought to be rendred to his Majesty, carrying with it the offer of our Fortunes and best Endeavours for his Majesty's Honour and Happiness, as a real testimony of our Thankfulness, and our hearty Prayers to God, that his Majesty may long and prosperously reign over us.

At this time Marquess Hamilton told the Covenanters, That he had no Authority to indict an Assembly, unless some Particulars were agreed upon, both concerning the Constitution of the Assembly, and the present settling the Peace of the Kingdom; and delivered the Particulars of the King's Demands to the chief Lords of the Covenanters in ten Articles, which they utterly disliked; and then the Marquess afterwards reduced them to these two, *viz.*

1. 'If the Lords and the rest will undertake for themselves and the rest, that no *Laicks* shall have Voices in chusing the Ministers to be sent from the severall Presbyteries to the General Assembly, nor none else but the Ministers of the same Presbytery.

2. 'If they will undertake that at the Assembly they shall not go about to determine things established by Act of Parliament, otherwise than by Remonstrance or Petition to the Parliament, leaving the determining of Things Ecclesiastical to the General Assembly, and things settled by Act of Parliament to the Parliament, then I will presently indict a General Assembly, and promise, upon my Honour, immediately after the Assembly, to indict a Parliament, which shall *Cognosce* of all their Complaints.

This highly displeased the Heads of the Covenanters, who began presently to think of the Election of Commissioners for the General Assembly. But the Marquess told them, That if they did proceed to the Election of any Commissioners for the Assembly before his return, he would not go his Journey at all, but leave them to their own ways. At last having consulted with their *Tables*, they agreed that the Election of Commissioners should be delayed until his return.

The Marquess by his Industry had got some of the Privy-Council, who were not satisfied with the Declaration, to be absent from the Council

Council that day; but divers of those who had signed the Act, *That Subjects ought to rest satisfied with the Declaration*, came afterwards to him, telling him, That upon second thoughts, they found they had *wronged their Consciences*, therefore they desired he would call a New Council, that they might retract what they had done; and said plainly, If he called not a Council, they would find another way to make their Retraction to be known, and that was, to *subscribe the Covenant*. The Marquess imparting this to the whole Council apart, found that three parts in four would immediately fall off, if he gave them not satisfaction; and judging that such a visible breach in the Council would ruin the King's Affairs, and the Act so signed not being Registered, but only Subscribed, he thought it best to tear it before their Faces, by which means he got the Storm calmed.

This being done, the Marquess took his Journey on *July the 6th*.

When the Marquess came to Court, he gave the King a full Account of all that had passed in *Scotland*, and of the Strength and Rage of the *Covenanters*, together with the unconstancy of many of the Secret Council, and proposed to his Majesty to renew the *Confession of Faith* ratified in Parliament 1567. And to that his Majesty did readily consent, and resolved to enlarge his Instructions, which he did to the effect following.

London, July 27, 1638.

CHARLES R.

You shall try by all means, to see if the Council will sign the Confession of Faith, established by Act of Parliament, with the New Bond joined thereunto: But you are not publickly to put it to voting, except you be sure to carry it, and thereafter that probably they will stand to it.

If the Council do sign it, though the Covenanters refuse, you shall proceed to the inditing of a free General Assembly; and though you cannot procure the Council to sign it, yet you are to proceed to the inditing thereof, if you find no other course can quiet Business at this time.

You shall labour by all fair means, that the sitting of the Assembly be not before the first of November, or longer if you can obtain it. For the Place, We are pleased to leave it to your Election: For the manner of Inditing, you must be as cautious as you can, and strive to draw it, as near as may be, to the former Assemblies in My Father's Time.

You must labour that the Bishops may have Votes in Assemblies; which if you cannot obtain, then you are to protest in their Favours, in the most formal manner you can think of.

As for the Moderator in the Assembly, you are to labour that he may be a Bishop; which though you cannot obtain, yet you must give way to their Election.

You are to labour, That the five Articles of Perth be held as indifferent: Strive that the Admissions of Ministers may continue as they are. You may condescend that the Oaths of their Admission be no other than is warranted by Act of Parliament.

You

14 Caroli.

Divers of the Council who subscribed to the Declaration, do retract the same.

The Marquess moves the King to renew the Confession of Faith.

An. 1638.

You are, if you find that it may any wise conduce to Our Service, to enact and publish the Order made at Hally-Rood-House, by Our Council, the fifth of July last, for discharging the Use of the Service-Book, Book of Canons, and the Practice of the High-Commission.

You are to protest against the Abolishing of Bishops, and to give way to as few Restrictions of their Power as you can: As for the Bishops not being capable of Civil Places, you must labour what you can to keep them free.

You may give way, that they shall be accountable to the General Assembly, which you shall indite at the rising of this against that time twelvemonth.

As for the Bishop's Precedence, you are not to admit them of the Assembly to meddle therewith, it being no point of Religion, and totally in the Crown.

If the Bishop of St. Andrews, or any other, be accused of any Crime, you are to give way to it, so they may have a free Trial, and likewise the same of whatsoever Person or Officer of State.

It is left to your discretion what course Bishops shall take, that are for the present out of the Country.

You are to advise the Bishops to forbear sitting at the Council, till better and more favourable times for them.

Notwithstanding all these Instructions above mentioned, or any other accident that may happen, (still labouring to keep up Our Honour so far as possibly you can) you are by no means to permit a present Rupture to happen, but to yield any thing, though unreasonable, rather then now to break.

Besides these Instructions, his Majesty ordered the Marquess, That the Moderators named by the Bishops in Presbyteries, be again reponed and held necessary Members of the Assembly; that all Ministers turned out since these Stirs began, might be again restored; and that all Ministers admitted without the Bishops, may not exercise their Function.

And the King wrote also by the Marquess to the Council, dated at *Oatlands*, July 30, taking notice that this Bond being not subscribed by Roial Leave and Authority, as was that in the time of King *James*, must needs be both null in it self, and prejudicial to the Kirk and State; his Majesty also declaring, That he hath ever bin fully satisfied in Judgment and Conscience, both of the Reformed Religion, and against the Roman.

And his Majesty also signed a Declaration to the same effect and purpose; not only to satisfy his loving Subjects, but all the Christian World, and therefore signed the *Confession of Faith*, established by Act of Parliament with that Bond.

The King likewise signed a Declaration of the same date, expressing the Contents in the said Letter, and that he will ever maintain the True Christian and Reformed Religion established in the Kingdom of *Scotland*; and to that end he hath signed the *Confession of Faith*, established by Act of Parliament 1557, with the Bond in defence of it.

But while the Marquess was busy at Court, the *Covenanters* in *Scotland* were going on for more Subscriptions to the Covenant; and because the North were for the most part against the Covenant, some Noble-

July 23.
Dispute at *Aberdeen* about
the Covenant.

Noblemen and Ministers went on the 23d of *July* (being that day 12-month the Stool was thrown at the Bishop's head) to *Aberdeen*, hoping to convince the Doctors there of the Lawfulness of the Covenant. But the Doctors violently argued against the same, because it was a Combination without Warrant or Authority. And the *Covenanters* gave out to the said Doctors at *Aberdeen*, that the *Lord-Commissioner* was satisfied with the Covenant upon the offer of that Explication, (which is formerly mentioned) but at the Commissioner's Return he declared the contrary.

The Marquess at his Return to *Hally-Rood House*, on the 10th of *August*, found things in a much worse posture than he had left them; for at a Convention of Burroughs, a few days before, they had enacted, That none might be Magistrates, or bear Office in any Burrough, except he had taken the Covenant. And the *Covenanters* were resolved that *Bishops should have no Vote* in the Assembly, and that *Episcopacy should be abolished*, and the *Articles of Perth condemned*, and all under pain of Excommunication were to sign the Covenant.

The Marquess being surprized with so great a change of the state of Affairs, gave Account thereof to the King, and resolved not to call a General Assembly till he first went in Person to acquaint his Majesty with the hazard he was like to run.

On the 13th of *August* the *Covenanters* came to demand his Answer to their *Petitions*. To whom he declared, that the King's Answer was so full of Grace and Goodness, that he will leave nothing undone that can be expected from a just Prince to save the Nation from Ruin; and that he finds they cannot be well settled without a Parliament and Assembly, and so delivered his Majesty's Answer to them to that purpose.

The Marquess also assured them, that immediately upon their Obedience he should indict an Assembly and Parliament, as he was instructed, *Order and Government* being first established again in the Country as it was before these Combustions. But they continued still treating about this till the 20th of *August*: Whereupon the Marquess craved again the space of Twenty days to go to Court, and bring an Answer from his Majesty. Which he did to gain more time, and to advise his Majesty to break with them, or to give way to the violence of their Zeal; and in that time also to attend the dispatch of Affairs at Court concerning the Kingdom of *Scotland*. So he took Journey on the 25th of *August* towards *London*.

The Marquess before his Journey thought fit to consult with the Earl of *Traquaire*, *Roxborough* and *Southesk*, what Advice to offer his Majesty. Who agreed upon Articles to be presented to his Majesty, some of which were to the effect following.

Since the Cause and Occasion of all the Distractions which of late have hapned both in Kirk and Polity, seems to proceed from the conceived Fears of *Innovation of Religion and Laws*, and that the *Service-Book*, *Book of Canons*, and the *unbounded Power of Bishops* in the *High-Commission*, (never yet warranted by Law) was that which first gave ground and occasion to the Subjects Fears; and seeing the said Books are offered to be proved to be full of Tenets and Doctrines contrary to the Reformed Religion, professed and established within this Kingdom, and the same introduced against all Form and Custom

14. Caroli.

The Marquess at his Return finds things in a bad condition.

And gives the King an Account thereof.

The Marquess desires twenty days time to go to the King and return.

He consults with 3 Lords not Covenanters.

Articles of advice offered to his Majesty, to have the Confession of Faith signed by his Father, to be revived.

An. 1638.

‘ practised in the Church, it were an Act of Justice well befitting
 ‘ so gracious and glorious a King, absolutely and fully to discharge
 ‘ the same.

‘ And seeing likewise this *High-Commission* hath given so great Of-
 ‘ fence to so many of your Majesties good Subjects, and as is constant-
 ‘ ly affirmed, is of so vast and unlimited a Power, and contrary to ex-
 ‘ press Laws, by which all such Judicatories not established by Act of
 ‘ Parliament, are declared to be of no force; it would much conduce
 ‘ to the satisfaction of this People, if this *Judicatory were discharged*
 ‘ till the same were established by Law.

‘ The Practice of the *five Articles of Perth* hath been withstood by
 ‘ the most considerable part of the Subjects of all qualities both Laity
 ‘ and Clergy, whereby great Divisions have been in this Church, and
 ‘ are like to have an increase, if your Majesty (in your accustomed
 ‘ Goodness and Care of this poor Kirk and Kingdom) shall not be
 ‘ graciously pleased to allow that the pressing of these Articles may be
 ‘ forborn until the same may be considered of in an Assembly and Par-
 ‘ liament. And although We conceive *Episcopacy* to be a Church-Gov-
 ‘ ernment most agreeable with Monarchy, yet the *illimited* Power
 ‘ which the Lords of the Clergy of this Kingdom have of late assumed to
 ‘ themselves in admitting and deposing of Ministers, and in divers other
 ‘ of their Acts and Proceedings, gives us just ground humbly to beg
 ‘ that your Majesty may be pleased to remit to the Consideration of
 ‘ the Assembly *this their unwarranted Power*.

‘ The sense and apprehension of these foresaid Evils hath stirred up
 ‘ the Subjects without warrant of Authority to *join in a Bond and Co-*
 ‘ *venant* to withstand the foresaid *Innovations*, and for maintenance of
 ‘ the *true Religion*, the *King's Majesties Person*, and of one another
 ‘ in the defence thereof.

‘ If Your Majesty might be graciously pleased in supplement hereof
 ‘ to allow or warrant such a *Confession of Faith*, with such a *Covenant*
 ‘ or *Bond* joined thereunto, *as that signed by Your Majesty's Royal Fa-*
 ‘ *ther*, and by his Command by the *Council*, and most part of the King-
 ‘ dom, We are very confident the same would be a ready and forcible
 ‘ mean to quiet the present Disorders, at least to satisfy most part.
 ‘ And if Your Majesty shall condescend to the foresaid Propositions,
 ‘ We are hopeful, if not confident, it shall give so *great content* to so
 ‘ considerable a number of your Majesty's good Subjects of all quali-
 ‘ ties, that if any shall stand out, or withstand your Majesty's Royal
 ‘ Pleasure, after the publication thereof, they may be overtaken by
 ‘ Your Majesty's Power within this Kingdom, without the Help or
 ‘ Assistance of any Force elsewhere.

‘ And because it is to be hoped that all that hath past in this Busi-
 ‘ ness, and all the Courses that have been taken herein by the Subjects,
 ‘ hath proceeded from the *aforesaid fears of Innovations*, and not out
 ‘ of any *Disloyalty* or *Dissatisfaction to Sovereignty*; and that Your
 ‘ good People may still taste the fruits of your Grace and Goodness,
 ‘ We wish Your Majesty may be graciously pleased, upon the *Word*
 ‘ of a King, to pardon what is past, &c.

August
1638.

Signed

Hamilton.
Traquaire.Roxborough.
Southesk.

When

When the Marquess arrived at Court, he told his Majesty, That unless he enlarged his Instructions, he was to treat no further; and since he saw the Contempt was like to have bin put on the last Instructions, so as he durst not make use of them, lest his Majesty should be exposed to new Affronts. And told his Majesty further, That nothing seemed so likely a course for removing of Jealousies, and settling of things, as the *Authorising the Covenant* that upon King James his command was drawn up in the Year 1580, containing the renunciation of all the Articles of Popery, which was the ground of the present Covenant.

And now the King resolved to try the utmost of yielding for the recovery of his Subjects in *Scotland*, therefore again he dispatched his Commissioner from *Oatlands*, on the 10th of September, with ample Instructions, to this effect.

Oatlands, September 9.

New Instructions to the Marquess, impouring him to revoke the *Service-Book*, *Canons*, &c.

CHARLES R.

1. **D**u shall in full and ample manner, by Proclamation or otherwise as you shall see cause, declare, That we do absolutely revoke the *Service-Book*, the *Book of Canons*, and the *High-Commission*.

2. You shall likewise discharge the practice of the five Articles of Perth, notwithstanding the Act of Parliament, which doth command the same: And in the said Proclamation you shall promise, in Our Name, That if in the first Parliament to be held, the three Estates shall think fit to repeal the said Act, We shall then give Our Royal Assent to the said Act of Repeal.

3. You shall likewise declare, That We have enjoined and authorized the Lords of Our Privy-Council, to subscribe the Confession of Faith, and Bond thereto annexed, which was subscribed by Our dear Father, and enjoined by his Majesty's Authority in the Year 1580. And likewise have enjoined them to take order, that all Our Subjects subscribe the same.

4. You shall likewise declare, That Our meaning and pleasure is, That none of Our Subjects, whether Ecclesiastical or Civil, shall be exempted from Censures, and Trial of the Parliament, or General Assembly, those Courts proceeding against them in due form and Order of Law.

5. You shall likewise declare, That We are graciously content, that the Episcopal Government already established, shall be limited with such Instructions as may stand with the Laws of this Church and Kingdom already established.

6. You shall offer a Pardon by Proclamation, and promise in it a Ratification of the same in Parliament to all Our good Subjects who shall rest satisfied with this Our gracious Declaration, and hereafter carry themselves as becomes peaceable and dutiful Subjects.

14 Caroli.

The Marquess arrives at Court.

The Marquess gets new Instructions.

An. 1638.

7. You shall procure an Act of Council, wherein every Counsellor shall declare himself fully satisfied with this Our Declaration, and (if you can) they shall moreover solemnly Swear and Protest to adhere to Us; and with their Lives, Fortunes, and whole Means, assist Us in the punishing and repressing all such as shall be found to be disobedient, or persist in turbulent and unpeaceable Courses; and if any of Our Counsellors shall refuse so to do, you shall presently remove him from the place of a Counsellor.

8. You shall likewise require every Lord of the Session to subscribe the Confession of Faith above mentioned, and the Bond thereunto annexed; as likewise to make the same protestation in all things, as in the last Instruction is required of a Counsellor; and if they shall refuse to do it, you shall then certify to Us the Names of such Refusers.

9. You shall likewise declare that Our Pleasure is, That a most Solemn Fast be indited upon a set Day throughout the whole Kingdom, which shall precede the General Assembly in some competent time. The Causes shall be declared, To beg God's Blessing on that Assembly; to beg of God a peaceable end to the Distractions of this Church and Kingdom; with the aversion of God's heavy Judgment from both. The form of indiction, We desire to be according to the most laudable custom of this Church in most extraordinary Cases.

10. You shall labour as much as in you lieth, that both the Electors, and Persons elected to be Commissioners at the General Assembly, shall be the same that were wont to be in my Father's Time, and the same Forms to be observed, as near as may be; but yet if that cannot be obtained, it shall be no let to you from inditing a General Assembly, but you shall go on it by all such means as you shall find most advantageous to Me in that Service.

11. The Time and Place of the Assembly (Edinburgh only excepted) We leave to your Judgment and Pleasure.

12. You shall likewise presently indit a Parliament; the Time and Place We leave likewise to you.

13. Whether you shall first publish Our Gracious Offers, or first indit the Assembly, We leave it to your own Judgment as you shall see cause.

14. If you shall find the most considerable part of the Council not to acquiesce in this Our Gracious Declaration, and not to promise hearty and chearful Assistance to Us, as is above expressed, or not a considerable part of other Lords and Gentlemen, in case Our Council refuse, then you shall neither indit Parliament nor Assembly, nor publish any of my Gracious Offers, except only the Abolishing of the Service-Book, Book of Canons and High-Commission, but leave them to themselves, and to such further order as We shall be forced to take with them; only if you foresee a Breach, you shall give timely warning thereof to such as have stood well-affected to Our Service, that so they may in due time provide for their safety, and your Self is to return to Us with expedition.

15. You must, by all means possible you can think of, infuse into the Ministers what a wrong it will be to them, and what an oppression upon the freedom of their Judgment, if there must be such a number of Laicks to over-rule them, both in their Elections for the General Assembly, and afterwards.

His

His Majesty did also sign Instructions for the Marquess his Behaviour with the Bishops, to desire the Bishop of St. *Andrews* to leave his Chancellor's place, to accept of the sum of 2500 *l. Sterling*, which should be done without injury to himself, and more to his advantage.

14 *Caroli.*

Likewise to intimate to them, That his Majesty intends to indict a General Assembly, and absolutely to discharge the Books of *Service*, and *Canons*, and *High-Commission*; and that the five Articles of *Perth* be esteemed as indifferent; and that though his Majesty will maintain *Episcopacy*, yet will be content that their Power be limited according to the Law.

The Marquess in his return met with the *Scotish* Bishops, and communicated to them the Contents of the King's Commands.

The Marquess being thus again dispatched at Court, took Journey for *Scotland*, and met the *Scotish* Bishops in the way, passing through *Yorkshire*, to whom he signified his Majesty's Pleasure; that the King inclined to indict a General Assembly, and absolutely to discharge the Books of *Service*, and *Canons*, and the *High-Commission*; and that the five Articles of *Perth* be esteemed as indifferent: and that though the King will maintain *Episcopacy*, yet he will be content that their Power be limited according to the Laws. But the Bishops were no ways pleased with what the Marquess had said unto them was the King's Pleasure, and spoke against it with great vehemency: But the Arch-Bishop of St. *Andrews* was the most moderate of any of them, and seemed to be willing to take 2500 *l. Sterling* Composition to quit his place of Chancellor.

The Bishops sorrowful.

On the 17th of *September* the Marquess arriv'd at *Hally-Rood-House*, where he found Jealousies begin to arise, between some of the wiser Ministers, and the Lords for the Covenant concerning the Lay-Ruling Elders.

Jealousies between the Ministers & Lay-Ruling Elders.

On the 20th the *Covenanters* sent to the Marquess to know when they might wait on him to know his Majesty's Pleasure; and he appointed the next day, *Septemb. 21*. When they came, he told them That the King had granted them all that they desired; and more also, a Free Assembly, and a Parliament, which should be immediately indicted, and opened the Particulars unto them; and they seemed reasonably well satisfied therewith, only they pressed him to desist from renewing the *Confession of Faith*, for they clearly saw that that would dissatisfy a great many of their Party. But the Marquess having made most of the Privy-Council sure before-hand, and that by Oath, resolved to hear of no delay.

The Covenanters against the *Confession of Faith*.

The next morning the Earl of *Rothess*, and many of the *Covenanting* Lords, desired access; and in the Name of the rest said, They heard the Council were to sign the Old *Confession of Faith*, and to publish a Declaration there-about, which they desired might be delayed till *Monday* next, and they doubted not to be able to give good Reasons why they should not do it: And being called into the Council, they raised a long Debate which lasted about four hours; but in the end no delay of publishing the Declaration was granted, and it was carried by Vote in the Council, That the *Confession of Faith* should be presently signed. Next, that the Proclamation of *Grace* should be presently published, and another Proclamation, that an *Assembly* should presently

The Covenanters labour to hinder the publication of the *Confession of Faith*, but in vain.

An. 1638.

The Proclamation of the 9th of Sept. was published, but met with a Protestation.

presently meet at *Glasgow* the 21 of *November*, and that a *Parliament* should meet at *Edinburgh* the 15th of *May* next.

Then the Council passed an Act, declaring their full satisfaction with his Majesty's Concessions, together with the Letter of Thanks to his Majesty, expressing their full satisfaction, with large engagements to adhere constantly to his Service; and so they arose at four of the Clock, having sat that day from seven in the morning. So the Proclamation of the 9th of *September* following, was immediately sent to the Cross at *Edinburgh*, which met with a Protestation; and though the Council seemed displeased at it, yet they could not be persuaded to pass a Censure upon the Protestation as Seditious.

The Copy of a Proclamation made at Edinburgh, Sept. 22.

CHARLES, &c. To Our Lovits, Our Heralds, Messengers, Our Sheriffs in that Part conjunctly and severally, specially constitute, greeting.

By Proclamation, the King makes void & null all Acts of Council tending to establish the Service-Book, Canons, &c.

Inasmuch as the cause and occasion of all the Distractions which have hapned of late, both in Church and Commonwealth, of this our Ancient Kingdom, have proceeded from the conceived Fears of Innovation of Religion and Laws. To free all our Good Subjects from the least suspicion of any intention in Us to innovate any thing, either in Religion or Laws; and to satisfy not only their Desires, but even their Doubts, We have discharged, and by these presents do discharge the Service-Book, Book of Canons, and High-Commission, and the practice of them, or any of them; and by these Presents annuls and rescinds all Acts of Council, Proclamations, and other Acts and Deeds whatsoever that have bin made and published for establishing them, or any of them; and declare the same to be null, and to have no force or effect in time coming. And being informed, that the urging of the practice of the five Articles of Perth-Assembly hath bred great Distraction and Division in the Church and State; We have bin graciously pleased to take the same into our consideration, and for the Quiet and Peace of Church and State, do not only dispense with the practice of the said Articles; but also discharge, like-as by these Presents, We discharge all and whatsoever Persons from urging the practice thereof, upon either Laick or Ecclesiastick Person whatsoever. And We do hereby free all our Subjects from all Censure and Pain, whether Ecclesiastical or Secular, for not urging, practicing, or obeying the same, notwithstanding any thing contained in the Acts of Parliament, or General Assembly to the contrary. And because it hath bin (to the disgrace of Government,) dispersed and surmised throughout this our Kingdom, that some of our Subjects have exercised such illimited and unwarranted Power, and have held themselves exempt from censure or punishment, to which other Subjects are liable; We do by these presents declare, That if any of our Subjects, whether Ecclesiastical or Civil, of whatsoever Quality, Title, or Degree, have, or shall at any time presume to do any such Act, or assume to themselves any such exemption or Power, that

that they shall, like as by these Presents We make and ordain them to be liable to the Trial and Censure of Parliament, General Assembly, or any other Judicatories competent, according to the nature and quality of the Offence. And for free entry of Ministers, that no other Oath be administered unto them, than that which is contained in the Act of Parliament. And to give our Subjects full assurance that We never intend to admit of any Change or Alteration in the True Religion already established and professed in this our Kingdom, and that all our good People may be fully and clearly satisfied of the reality of our Intentions towards the maintenance of the Truth, and integrity of the said Religion; We have thought fit and expedient to enjoin and authorize, like as We by these Presents do require and command all the Lords of our Privy-Council, Senators of our Colledge of Justice, and all Judges and Magistrates to Burrough and Land, and all other our Subjects whatsoever, to subscribe and renew the Confession of Faith, subscribed at first by our dear Father and his Household, in the Year of God 1580, thereafter by Persons of all Ranks, in the Year 1581, by Ordinance of the Lords of Secret Council, and Acts of the General Assembly, Subscribed again by all sorts of Persons in the Year 1590, by a New Ordinance of Council, at the desire of the General Assembly, with their General Bond of Maintenance of the True Religion, and the King's Person. And for that effect We do require the Lords of the Council to take such course anent the foresaid Confession and General Band, that it may be subscribed and renewed throughout the whole Realm with all possible Diligence. And because We will not leave in our Subjects minds the least scruple, or doubt of our Royal Intentions, and Real Resolutions; We have given Warrant to our Commissioner to indite a Free General Assembly to be holden at Glasgow the 21 of November, in this present Year 1638, and thereafter a Parliament to be holden at Edinburgh, the 15th day of May 1639, for settling a perfect Peace both in Church and Commonwealth of this Kingdom. And because it is likely that the Disorders and Distractions which have hapned of late, have bin occasioned through the conceived Fears of Innovations of Religion, and Laws, and not out of any Disloyalty or Disaffection to Sovereignty; We are graciously pleased absolutely to forget what is past, and freely to forgive all By-gons to all such as shall acquiesce to this our Gracious Pleasure, and carry themselves peaceably, as Loial and Dutiful Subjects; and We shall ratify and approve the same in our next ensuing Parliament. And that this Assembly may have the better success, and more happy conclusion, Our Will is, That there be a Solemn Fast proclaimed and kept by all our Loving Subjects of this Kingdom, fourteen days before the beginning of the said Assembly; The causes thereof to be, A begging from God a Blessing upon that Assembly, and a peaceable end to the Distractions of this Church and Kingdom, with the aversion of God's heavy Judgment from both. And Our pleasure is, That this Fast be kept in the most solemn manner, as hath bin in this Church at any time heretofore, upon the most extraordinary occasion. Our Will is therefore, and We charge you strictly, and command, That incontinent these our Letters seen, ye pass, and make publication hereof by open Proclamation at the Market-

14 Caroli.

An. 1638. *Market-Crosses of the Head-Boroughs of this our Kingdom, where-
through none pretend ignorance of the same.*

Given under Our Signet, at Our Court of Oatlands, the 9th day
of September, 1638.

At the same time when this Declaration was proclaimed, another
was also proclaimed for indicting an Assembly at *Glasgow*, November
21, and another for a Parliament at *Edinburgh* the 15th of May. The
Protestation in answer to this Declaration doth follow; only for the
present We insert in this place so much of that Protestation as relates
in answer to the *Confession of Faith*, ordered by the King to be sub-
scribed unto; and afterwards in the *Appendix*, the rest of this Pro-
testation, being very long, is at large set down.

*The Protestation of the Noblemen, Barons, Gentlemen, Bur-
roughs, Ministers, and Commons, &c. in answer to the
King's Declaration of the 9th of September.*

‘**T**Hat this Proclamation commandeth all his Majesty's Subjects,
‘ for maintenance of the Religion already established, to sub-
‘ scribe and renew the *Confession of Faith*, subscribed before in the
‘ Year 1580, and afterwards; and requireth the Lords of the Privy-
‘ Council to take such course anent the same, and general Band of
‘ maintenance of the True Religion, and the King's Person, that it
‘ may be subscribed and renewed throughout the whole Kingdom,
‘ with all possible diligence, which cannot now be performed by us:
‘ For although of late we would have bin glad that our selves, and
‘ other his Majesty's Subjects had bin commanded by Authority to
‘ swear and subscribe the General *Confession of Faith* against Popish
‘ Errors and Superstitions, and now would be glad that all others
‘ should join with Us in our late Covenant and Confession, descend-
‘ ing more especially to the Novations and Errors of the Time, and
‘ obliging Us to the Defence of Religion, and of the King's Maje-
‘ sty's Person and Authority, and for these ends to the mutual de-
‘ fence every one of Us of another; Yet can We not now, after
‘ so necessary and so solemn a Specification, return to the General,
‘ for the Reasons following.

1. ‘ No means have bin left unassayed against Our late *Confession of
‘ Faith and Covenant* so solemnly sworn and subscribed: for first, We
‘ were prest with the rendring and rescinding of our *Covenant*; next,
‘ an alteration in some substantial Point, was urged; thirdly, A De-
‘ claration was mentioned, which tended to the enervation thereof;
‘ and now We find in the same strain, that We are put to a new Trial,
‘ and the last mean is used more subtil than the former. That by this new
‘ Subscription, Our late Covenant and Confession may be quite ab-
‘ sorbed and buried in Oblivion, that where it was intended and sworn
‘ to be an Everlasting Covenant never to be forgotten, it shall be never
‘ more remembred, the one shall be cried up, and the other drowned
‘ in the noise thereof. And thus the new Subscription now urged, (al-
‘ though in a different way) shall prove equivalent to the rending of
‘ the Covenant, or what of that kind hath before bin essayed; like as
‘ the

the Reasons against the rendring of the Covenant, do militate directly against this new Motion.

2. ' If We should now enter upon this new Subscription, We would think our selves guilty of mocking God, and taking his Name in vain; for the Tears that began to be poured forth at the solemnizing of the Covenant, are not yet dried up and wiped away; and the joyful noise which then began to sound, hath not yet ceased; and there can be no new necessity from Us, and upon our part, pretended for a ground of urging this new Subscription, at first intended to be an Abjuration of Popery upon Us, who are known to hate Popery with an unfained hatred, and have all this Year by-gone given large testimony of our Zeal against it. As We are not to multiply Miracles on God's part, so ought We not to multiply solemn Oaths, and Covenants upon our part; and thus to play with Oaths, as Children do with their Toies without necessity.

3. ' Neither would We in giving way to this new Subscription, think our selves free of Perjury; for as We were driven by an undeclineable necessity to enter into a mutual Covenant, so are We bound, not only by the Law of God and Nature, but by our solemn Oath and Subscription, against all divisive Motions, to promote and observe the same without Violation; and it is most manifest, that having already refused to render, alter, or destroy our Covenant, nothing can be more contrary and adverse to our pious Intentions, and sincere Resolutions, than to consent to such a Subscription and Oath, as both in the intention of the Urgers, and in the nature and condition of the Matter urged, is the ready way to extinguish, and to drown in oblivion the Band of our Union and Conjunction, that they be no more remembered. In this case We are called to lay seriously to our hearts; first, That We have sworn that We shall neither directly nor indirectly suffer our selves to be divided and withdrawn from this blessed and loial Conjunction, which consisteth not only in the *General Confession*, but also in our Explanation and Application thereof; but on the contrary, shall by all lawful means labour to further and promote the same. 2ly, That our Union and Conjunction may be observed without violation, (and so without mutilation of our Application) we call the living God to Witness, as We shall answer to Christ in the great Day, &c.

4. ' This new Subscription, instead of performing our Vows, would be a real Testimony and Confession before the World, that We have bin Transgressors in making rash Vows; that We repent our selves of former zeal and forwardness, against the Particulars expressed first in our Supplications, Complaints, and Protestations; and next abjured in our *Covenant*, that We in our Judgment prefer the *General Confession* unto this, which necessarily was now made more special; and that We are now, under the fair pretext and honest cover of a New Oath, recanting and undoing that, which upon so mature deliberation We have bin doing before. This, besides all other Evils, were to make Way, and open a Door, to the re-entry of the Particulars abjured, and to repent our selves of our chiefest Consolations, and to lye both against God and our own Souls.

5. ' It hath bin often objected, That our *Confession of Faith*, and *Covenant*, was unlawful, because it wanted the Warrants of publick

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Authority; and it hath bin answered by Us, That We were not destitute of the Warrant Civil and Ecclesiastical, which authorized the former Covenant. And although We could have wished that his Majesty had added both his Subscription and Authority unto it, yet the less constraint from Authority, and the more liberty, the less hypocrisy and more sincerity hath appeared. But by this new Subscription urged by Authority, We both condemn our former Subscription as unlawful, because alledged to be done without Authority; and pre-condemn also the like laudable course in the like necessity to be taken by *Posterity*.

6. 'What is the use of Merch-stones upon Borders of Lands; the like use hath *Confessions of Faith* in the Kirk, to distermine and divide betwixt Truth and Error, and the renewing and applying of *Confessions of Faith* to the present Errors and Corruptions, are not unlike riding of Merches; and therefore to content our selves with the general, and to return to it, from the particular Application of the *Confession* necessarily made upon the invasion or creeping in of Errors within the borders of the Kirk, if it be not a removing of the Merch-stone from the own place, it is at least the hiding of the Merch in the Ground that it be not seen, which at this time were very unseasonable for two Causes; one is, because Popery is so pregnant and powerful in this Land, as We have learned of late. The other because the Papists, who upon the urging of the *Service-Book* and *Canons*, have presumed of our return to *Rome*, will upon this our Subscription return unto their ancient and wonted presumption; none of us will deny, but the large *Confession of Faith* registred in the Acts of Parliament, doth by consequence contain this short *Confession* and *Abjuration*: Yet were it not sufficient against Popery to subscribe the one without the other: How then shall we think that the more general *Confession* and *Abjuration* at this time, when the urging of such Popish Books have extorted from Us so necessary an Application, and doth still call for a Testimony, to be compleat enough without it.

7. 'The Papists shall hereby be occasioned to renew their old Objections against Us, *Annuas & menstruas fides de Deo decernunt*, That our Faith changeth with the Moon, or once in the Year. Other Reformed Kirks might justly wonder at our Inconstancy in changing our *Confession* without any real necessity, and that in one and the same Year it cometh forth larger and more particular, then shorter and more general: and our Adversaries will not fail to traduce us, as troublers of the Peace of the Kirk and Kingdom without any necessary Cause.

8. 'It will likewise prove a Confirmation of their Error, who think they may both subscribe the *Confession of Faith*, and receive the *Service-Book* and *Canons*; which is not only a direct scandalizing of them but also a ready way to put a Weapon in their hands against our selves, who maintain and profess, that these and such other Evils are abjured in the *Confession of Faith*.

9. 'If We should now swear this *Confession*, We should be obliged by our Oath to maintain *Perth*-Articles, which are the Innovations already introduced in the Worship of God, and to maintain Episcopacy, with the Civil Places, and Power of Kirkmen, because We are bound to swear this *Confession* by virtue of, and conform unto the

'King's

King's Command, signed by his Sacred Majesty, of the date *September 9. 1638.* (these are the very words subjoined to the *Confession* and *Band*, and prefixed to the Subscriptions). And it cannot be denied, but any Oath ministred unto Us, must either be refused, or else taken, according to the known Mind, professed Intention, and express Command of Authority urging the same. And it is most manifest, that his Majesty's Mind, Intention, and Commandment, is no other, but that the *Confession* be sworn for the maintenance of Religion, as it is already or presently professed, (these two being coincident, altogether one and the same, not only in our common form of speaking, but in all his Majesty's Proclamations) and thus as it includeth, and containeth within the compass thereof, the foresaid Novations and Episcopacy, which under that Name were also ratified, in the first Parliament holden by his Majesty. And where it may be objected, That the Counsellors have subscribed the *Confession of Faith*, as it was professed 1580, and will not urge the Subscription in another sense upon the Subjects. We answer, first, The Act of Council containing that Declaration, is not as yet published by Proclamation. Secondly, If it were so published, it behoved of necessity, either to be repugnant to his Majesty's declared Judgment and Command, which is more than to swear without Warrant from Authority, (a fault, although unjustly, often objected unto Us); or else We must affirm the Religion in the Year 1580, and at this time, to be altogether one and the same; and thus must acknowledg, that there is no Novation of Religion: which were a formal contradiction to that We have sworn. Thirdly, By approving the Proclamation anent the Oath to be administred to Ministers, according to the Act of Parliament, which is to swear simple obedience to the *Diocesan* Bishop, and by warning all Arch-Bishops and Bishops to be present, as having Voice and Place in the Assembly, they seem to determin, that in their Judgment, The *Confession of Faith*, as it was professed 1580, doth consist with Episcopacy; whereas We by our Oath have referred the trial of this, or any other Question of that kind, to the General Assembly and Parliament.

10. This Subscription and Oath, in the Mind and Intention of Authority, and consequently in Our swearing thereof, may consist with the Corruptions of the *Service-Book* and *Canons*, which We have abjured as other heads of Popery. For this present Proclamation and his Majesty's former Proclamations at *Linlithgow, Striveling* *Edinburgh*; The Lords of the Privy-Council, in their approbation of the same, and the Prelates and Doctors who stand for the *Service-Book* and *Canons*, do all speak plainly, or impart so much, That these Books are not repugnant to the *Confession of Faith*, and that the introducing of them is no Novation of Religion or Law; and therefore We must either refuse to subscribe now, or We must confess contrary to our late Oath, and to a clear Truth, That the *Service-Book* and *Canons* are no Innovations in Religion. And though the present Books be discharged by Proclamation, yet if We shall, by any Deed of our own, testify, that they may consist with our *Confession of Faith*, within a very short time, either the same Books, or some other like unto them, with some small change, may be obtruded upon Us, who by our abjuration (if We adhere unto it) have freed both our selves, and the Posterity of all such Corruptions, and have

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laid a fair Foundation for the pure Worship of God in a time coming.

11. ' Although there be indeed no substantial difference between that which We have subscribed, and the *Confession* subscribed 1580, more than there is between that which is hid, and that which is revealed; a March-stone hid in the Ground, and uncovered; betwixt the Hand closed and open, betwixt a Sword sheathed and drawn; or betwixt the large *Confession*, registrate in the Acts of Parliament, and the short *Confession*, or (if We may with reverence ascend yet higher) between the *Old Testament* and the *New*; yet as to sheath our Sword when it should be drawn, were imprudence; or at the commandment of Princes, professedly Popish in their Dominions, after the Subjects had subscribed both Confessions, to subscribe the first without the second; or at the Will of a Jewish Magistrate, openly denying the *New Testament*, to subscribe the *Old* alone, after that they have subscribed both, were horrible impiety against God, and treachery against the Truth; Right so for Us to subscribe the former apart, as it is now urged and framed, without the Explanation and Application thereof at this time, when Ours is rejected, and the Subscribers of the former refuse to subscribe Ours, as containing something substantially different, and urge the former upon us, as different from Ours, and not expressing the special abjuration of the Evils supplicated against by Us, were nothing else but to deny and part from Our former Subscription, if not formally, yet interpretatively: Old *Eleazer*, who would not seem to eat forbidden Meat, and the Confessors and Martyrs of old, who would not seem, by delivering some of their Papers, to render the Bible, or to deny the Truth, may teach Us our Duty in this Case, although our Lives were in hazard for refusing this Subscription. And who knoweth but the Lord may be calling his People now, who have proceeded so far in professing his Truth at this time, to such Trials and Confessions as his faithful Witnesses have given of old; that in this Point also Our doing may be a Document, both to the succeeding Ages, and to other Kirks, to whom for the present We are made a Spectacle.

12. ' If any be so forgetful of his Oath (which God forbid) as to subscribe this *Confession* as it is now urged, he doth according to the Proclamation, acquiesce in this Declaration of his Majesty's Will, and doth accept of such a Pardon as hath need to be ratified in Parliament, and thus doth turn our Glory unto shame, by confessing our guiltiness, where God from Heaven hath made Us guiltless, and by the fire of his Spirit from Heaven hath accepted of our Service, and doth depart from the Commandment of God, the practice of the Godly in former Times, and the worthy and laudable example of our Worthy and Religious Progenitors; in obedience whereof, and conform to which, We made profession to subscribe; for there is no particular Act required of Us, to whom the Pardon is presented in this Proclamation, but this new subscription allanerly.

13. ' The *General Band* now urged to be subscribed, as it containeth many Clauses not so fitting the present time as that wherein it was subscribed, so is it deficient in a Point at this time most necessary, of the reformation of our Lives, that We shall, answerably to our Profession, be Examples to others, of all Godliness, Soberness, and Righteousness, and of every Duty We owe to God and Man, with-

out

out which We cannot now subscribe to this *Confession*, lest We loose the Bands to Wickedness, seem to repent of our former Resolutions and Promises, and chuse to have our portion with Hypocrites; professing and swearing, That We know God, but in our Works denying him, being abominable, disobedient, and unto every good Work reprobate.

14. Since the Narrative of the *General Band* is now changed, and some Lines, expressing at length the Papists and their Adherents, to be the party from whom the danger to Religion, and the King's Majesty, was threatned, are left out, and no designation made of the Party from whom the danger is now threatned, We are made either to think, that our Subscription at this time is unnecessary, or to suspect that we who have supplicated and entred into Covenant, are understood to be the Party; especially since the Lords of Council have, in the Act *Septem. 22.* ratifying the Proclamation, found themselves bound to use their best endeavours, That all his Majesty's good subjects may rest satisfied with his Majesty's Declaration; since also We have bin (although undeservedly) challenged of Disorders, Distractions, and Dangers to Religion, and his Majesty's Authority; and since in the foresaid Act, and in the Missive directed to his Majesty, the Lords of the Council offer their Lives and Fortunes to his Majesty, in repressing all such as shall hereafter please to disturb the Peace of this Kirk and Kingdom; which being expressed in a generality, is by many applyed to Us, and interpreted of our adhering to our Covenant. We should therefore, by our subscription of the Covenant, as it is now conceived, both do directly against our own Minds, in condemning our Selves, wherein We are Innocent, and should consent to our own hurt, to the suppressing of the Cause which We maintain, and to the repressing mutually one of us of another, directly contrary to our former solemn Oath and Subscription.

15. The subscribing of this *Confession* by the Lords of his Majesty's Privy-Council, who by their Place and high Employment, are publick Peacemakers; and by others who have not subscribed the late *Confession*, will make the Breach wider, and the lamentable Division of this Kirk more desperate than ever before; some having sworn to labour, by all lawful means, to recover the former Liberty and Purity of Religion; and others maintaining that for Purity which is already established; some believing and professing, that the Evils supplicated against, are abjured in that *Confession of Faith*; and others maintaining the *Confession of Faith*: And these Corruptions (although for the present discharged by Authority) not to be inconsistent.

And besides this, many Divisions and Subdivisions will ensue, to the doleful renting of the Kirk and Kingdom, making way for the Wrath and many Judgments of God often threatned by his faithful Servants, which all the Godly ought to labour by all means to prevent.

We represent also to the Honourable Lords of Privy-Council to be considered, that the Doctrine, Discipline, and Use of Sacraments are sworn, and the contrary abjured, according to the Word of God, and the Meaning of the Kirk of *Scotland* in the Books of Discipline,

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Discipline, and Acts of Assembly; and that in the Oath there is no place left to the generality of any Man's Conception of the true Faith and Religion, nor to any private Interpretation, or mental reservation.

After this was proclaimed, the *Confession of Faith*, as it was at first commanded by his Majesty's Royal Father; as also the *Band* annexed, for defence of the Religion now established, and of the King's Person and Authority, with the Subscriptions of the Commissioner and Council to them both, do here follow.

As to the Confession of Faith of the Kirk of *Scotland*, now ordered to be taken by his Majesty, it is the same * *verbatim* with the Confession of Faith mentioned before the Covenant subscribed unto by the Covenanters; so the difference only is in the *Band* annexed to his Majesty's *Confession of Faith* ordered to be subscribed unto, and here followeth:

* King's large Declaration, pag. 55.

The *Band* annexed to the King's *Confession of Faith*. * *Memoires* Hamilton, pag. 77.

WE undersubscribing, and considering the strait Link and Conjunction betwixt the True and Christian Religion presently profest within this Realm, and our Sovereign Lord's estate and standing, having both the self-same Friends and common Enemies, and subject to the like event of standing and decay; weighing there-withal the imminent Danger threatned to the said Religion, the preservation whereof being dearer to us than whatsoever we have dearest to us in this Life. And finding in his Majesty a most Honourable and Christian Resolution, to manifest Himself to the World that Zealous and Religious Prince which he hath hitherto professed; and to imploy the Means and Power which God hath put into his hands, as well to the withstanding of whatsoever Foreign Force shall mean within this Land, for alteration of the said Religion, or endangering of the present State, as to the repressing of the inward Enemies there-to amongst our selves, linked with them in the said Anti-christian League and Confederacy; Have therefore in the presence of Almighty God, and with his Majesty's authorizing and allowance, faithfully promised, and solemnly sworn, like as hereby we faithfully and solemnly swear, and promise, to take a true effauld, and plain part, with his Majesty amongst our selves, for diverting of the appearing danger threatned to the said Religion, and his Majesty's State and Standing, depending thereupon, by whatsoever Forreign or Intestine Plots or Preparations. And to that effect, faithfully, and that upon our Truth and Honour, bind and oblige us to others, to convene and assemble our selves publickly, with our Friends in Arms, or in quiet manner, at such times and places as we shall be required by his Majesties Proclamation, or by Writ or Message directed to Us from his Majesty, or any having Power from, and being convened and assembled, to join and concur with the whole Forces of our Friends and Followers, against whatsoever Foreign or intestine Powers, or *Papists* and their Partakers, shall arrive or rise within this Island, or any part thereof, ready to defend or pursue, as We shall be authorized or conducted by his Majesty, or any others having his Power and Commission, to join and hold hand to the execution of whatsoever Mean or Order shall be thought meet by his Majesty and his Council, for suppressing the *Papists*, promotion of the true Religion, and settling

' settling of his Highness Estate, and Obedience in all the Countries and
 ' Corners of this Realm, to expose and hazard our Lives, Lands and
 ' Goods, and whatsoever Means God hath lent Us, in the defence of
 ' the said True and Christian Religion, and his Majesty's Person and
 ' Estate, against whatsoever Jesuits and Seminary or Mass-Priests, con-
 ' demned Enemies to God and his Majesty, to their utter Wreck and
 ' Extermination, according to the Power granted unto Us by his Ma-
 ' jesty's Proclamation and Acts of Parliament, To try, search, and seek
 ' out all Excommunicates, Practisers, and other Papists whatsoever,
 ' within our Bounds and Shire where we keep residence, and dilate
 ' them to his Highness and his Privy-Council, and conform us to such
 ' Directions as from time to time We shall receive from his Majesty and
 ' his Council in their behalfs. And especially so many of Us as pre-
 ' sently are, or hereafter shall be appointed Commissioners in every
 ' Shire, shall follow, pursue, and travel by all means possible, to take
 ' and apprehend all such Papists, Apostates and Excommunicates, as
 ' We shall receive in Writ from his Majesty. And We the Remanent
 ' within that Shire, shall concur and assist with the said Commissioners,
 ' with our whole Friends and Forces to that effect, without respect of
 ' any person whatsoever, and generally to assist in the mean time, and
 ' defend every one of us another, in all and whatsoever Quarrels, Ac-
 ' tions, Debates moved, or to be moved against us, or any of us upon
 ' Action of the present Band, or other Causes depending thereupon;
 ' and effauldly join in defence and pursuit against whatsoever shall of-
 ' fer or intend any injury or revenge against them, or any one of them,
 ' for the premisses, making his cause and part that is pursued, all our
 ' parts; notwithstanding whatsoever privy grudge or displeasure stand-
 ' ing betwixt any of us, which shall be no impediment or hindrance to
 ' our said Effauld joining in the said Common Cause; but to lie over,
 ' and be misknown, till they be orderly removed and taken away by
 ' the Order under-specified. To the which time, We for the better
 ' furtherance of the said Cause and Service, have assured, and by the
 ' tenor hereof, every one of us taking the burden upon us for our
 ' selves, and all that We may let, assure each other to be unhurt, un-
 ' harmed, or any ways to be invaded by us, or any our foresaids for old
 ' Feid or new, otherwise than by ordinary course of Law and Justice:
 ' Neither shall We, nor any of our foresaids, make any Provocation
 ' or Tumult, Trouble, or Displeasure to others in any sort, as We
 ' shall answer to God, and upon our Honours and Fidelity to his Ma-
 ' jesty.

' And for our further and more hearty Union in this Service, We are
 ' content and consent, That all whatsoever our Feids and Variances
 ' fallen, or that may fall out, betwixt us, be within fourty days after
 ' the date hereof amicably referred and submitted to seven or five in-
 ' different Friends, chosen by his Majesty, of our whole number, and
 ' by their Moderation and Arbitrement compounded and taken away.
 ' And finally, that We shall neither directly nor indirectly separate nor
 ' withdraw us from the Union and Fellowship of the Remanent by
 ' whatsoever suggestion or private advice, or by whatsoever incident
 ' regard or stay such resolution as by common deliberation shall be ta-
 ' ken in the Premisses, as We shall answer to God upon our Conscien-
 ' ces, and to the World upon our Truth and Honour, under the pain
 ' to be esteemed Traitors to God and His Majesty, and to have lost all
 ' Honour,

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Honour, Credit, and Estimation, in time coming. In Witness where-
of, by his Majesty's special Command, Allowance, and Protection
promised to us therein, We have subscribed these Presents with
our Hands at 1589.

The King's Commissioner, the day after the time prefixed for his
return to *Scotland*, viz. on the 23 day of *September*, 1638, assembled
the Council at the Palace at *Hally-Rood-House*; and first delivered
there to them this ensuing Letter from his Majesty, dated *Septemb. 9.*

The King's
Letter to be
registred.
Septemb. 22.

The which day *James* Marques *Hamilton*, his Majesty's Commis-
sioner, produced and exhibited before the Lords of the Privy-Council,
the two Missives under-written, signed by the King's Majesty, and di-
rected to the said Lords; which being read, heard, and considered by
the said Lords, they have ordained, and ordains the same to be infer-
ted and registred in the Books of Secret Council, therein to remain,
in futuram rei memoriam, whereof the Tenour followeth.

The KING's Letter.

CHARLES R.

Sept. 9. 1638.

Right Trusty, &c. Being certainly informed, that the Di-
stractions which have happened of late (both in Church and
Common-Wealth) in this our Ancient Kingdom of Scot-
land, have much troubled the Minds of many of our Good and
Loyal Subjects; and that these Distractions have bin occasioned
upon Jealousies and Fears of Innovation of Religion and Laws,
as tending to the Introduction of Popery; and not without some
suspicion, as if We our Selves were inclined that way. Upon oc-
casion whereof, many of our Subjects have of late subscribed a
Band or Covenant for preserving the true Religion and Laws alrea-
dy established, and for defending the King's Person, and each others
in defence thereof. But the same not being warranted by Royal Au-
thority, as that which was in our dear Father's Time, must needs
of it self be ineffectual, and much prejudicial to the Ancient Form
and Custom of Government kept within that our Kingdom of
Scotland: Wherefore We, out of our inborn love to our Native
Country, and for obviating these conceived Fears, and satisfying of
you, and all our Loving People, have thought good to ordain the
Confession of Faith, and Band thereunto subjoined, of the Date at
Edinburgh, Jan. 28. 1580. and signed by our Royal Father, to be re-
newed; and to that effect have given order to our Commissioner,
with advice of our Council, to set down and settle some solid course,
whereby the same may be subscribed by our Council, Judges, Magi-
strates of Burroughs, and all our other People of that Kingdom.
And for further clearing of our Self, We declare, That as We are,
and ever have bin satisfied in our Judgment and Conscience, for the
Reformed Religion now established, and against the Roman, So We
purpose by God's Grace both to live and die in the practice of it,
and to preserve and maintain the same in full strength and integrity,
according to the Laws of that our Ancient Kingdom. What We
have

have thought further fitting to be done at this time concerning the Particulars contained in our Subjects Petitions, you shall receive our full Pleasure therein from our Commissioner; and that this our Declaration, containing our Self, and our pious Intention for settling the Reformed Religion within that our Kingdom, may appear to Posterity, Our Pleasure is, That these Presents be registred in the Books of Council.

14 Caroli.

Oatlands, Sept. 9. 1638.

After this the Marques, and the Lords of Secret Council, do swear and subscribe the *Confession of Faith*, in manner following, dated Sept. 9.

WE James Marques of Hamilton, Earl of Arran and Cambridg, Lord Evon and Evondail, his Majesty's High Commissioner; and Lords of his Majesty's Privy-Council under-subscribing, by virtue, and conform to a Warrant and Command signed by his Sacred Majesty, of the date of 9 Sept. 1638. and registred in the Books of Council, upon the 22 day of Sept. the said month, swear, and with our hearts, and humble Affections to God, Truth, and to his Sacred Majesty, subscribe the Confession of Faith, of and according to the Date and Tenour above-specified; and also renew, swear, and subscribe the aforesaid General Band of the Tenour above-written, for preservation of True Religion, and maintenance of his Sacred Majesty's Authority, according to the Tenour thereof, and siclike, as ample as the same was conceived in favours of his Majesty's unwhille blessed Father of eternal Memory, by the said Band. In Witness whereof, We have subscribed these Presents with our hands, at Hal-ly-Rood-House.

Septemb. 22. 1638. Sic subscribitur.

HAMILTON,

Traquair, Roxborough, Marsheal, Marre, Murray, Linlithgow, Perth, Wigton, Kinghorne, Tullibardin, Haddingtoun, Annandail, Lauderdail, Kinnowl, Dumfrees, Southesk, Belheaven, Angus, Lorn, Elphinstoun, Napier, Dalyell, Amont, John Hay, Sir Tho. Hope, Sir Will. Elphington, Ja. Carmichael, J. Hamilton, Blackhall.

Likewise the Marques on the 22 of *Septem.* did publish his Majesty's Pleasure, That a Free and General Assembly be indicted, kept and holden at *Glasgow*, the 21 of *November* next.

INASMUCH as it hath pleased the King's Majesty, out of his pious and religious Disposition to the True Religion, and out of his Fatherly Care for removing of all Doubts, Fears, and Scruples, which may arise in the minds of his Subjects, for preservation of the purity thereof; and upon divers great and weighty considerations, importing the Glory of God, the Peace of the Kirk and Common-Wealth of this Kingdom, to appoint and give order, That a Free General Assembly be indicted, kept, and holden at the City of *Glasgow* the 21 of *November* next. Therefore the Lords of the Privy-Council,

An. 1638.

Council, ordains Letters to be directed, charging Bacers, and Officers of Arms, to pass and make publication hereof, by open Proclamation at the Market-Cross of Edinburgh, and the head Burroughs of this Kingdom, and other places needful; and to warn all and sundry Arch-Bishops, Bishops, Commissioners of Kirks, & others having Place and Vote in the Assembly, to repair and address to the said City of Glasgow, the said one and twentieth day of November next to come, and to attend the said Assembly during the time thereof, and aye and while the same be dissolved. And to do and perform all which to their Charges in such Cases appertaineth, as they will answer the contrary at their highest peril.

Immediately after this, Proclamation was made for the Indiction of a Parliament to meet at *Edinburgh* the 15th of *May*.

Inasmuch as it hath pleased the King, out of his pious and religious Disposition to the True Religion, and out of his Fatherly Care for removing all Doubts, Scruples, and Fears, which may arise in the Minds of his Subjects, for preservation of the Purity thereof, and upon divers other great and weighty Causes, importing the Glory of God, the Peace of the Kirk, and Commonwealth of this Kingdom, to appoint and give order, That the Sovereign and High Court of Parliament, shall be holden at the City of Edinburgh upon the fifteenth day of May next to come, with continuation of days. Therefore the Lords of Secret Council ordain Letters to be directed to Bacers and Officers of Arms, charging them to pass to the Market-Cross of Edinburgh, and other places needful, and there by open Proclamation to make publication of the holding of the said Parliament; and to warn all and sundry Noblemen, Prelates, and Commissioners for the Barons, and Burroughs, and all others having Voice and Place in the said Parliament, that they and every one of them, in their most decent and comely manner, make their Address to the said Parliament, await and attend thereat during the time thereof, and to discharge that Duty which is incumbent to them, and each one of them, as they will answer on the contrary at their highest peril.

And last of all was published and proclaimed, the Act of the Lords of the Council, requiring all the King's Subjects to subscribe the *Confession of Faith*, and *Band* annexed as followeth.

September 24. 1638.

The which day a Noble Earl, James Marquess of Hamilton, Earl of Arran and Cambridg, his Majesty's Commissioner, having produced and exhibited before the Lords of the Secret Council, upon the twenty second day of this instant, a Warrant signed by his Majesty, of the date of the ninth of September instant; wherein among other of his Majesty's Gracious and Roial Expressions for preservation of the purity of Religion, and due obedience to his Majesty's Authority in the maintenance thereof, his Majesty did Will and Ordain, that the Lords themselves should swear the Confession and General Band mentioned in his Majesty's said Warrant; and also

A Warrant signed by the King the 9th of September, ordaining the swearing of the Confession.

also should take such order, as all his Majesty's Lieges may subscribe the same. And the said Lords of the Secret Council acknowledging his Majesty's pious and gracious Disposition and Affection to the purity of God's Truth, did, upon the two and twentieth of September instant, unanimously, with all humble, hearty, and sincere Affection, swear and subscribe the Confession of Faith, dated the second of March 1580, according as it was then professed within this Kingdom; together with the foresaid General Band, dated in Anno 1589. And now to that effect, that all his Majesty's Lieges may give the like Obedience to his Majesty's so pious a desire; therefore the said Lords have ordained, and ordains, that all his Majesties Lieges, of whatsoever Estate, Degree, or Quality, Ecclesiastical or Civil, do swear and subscribe the said Confession, dated the second of March, 1580. And that according to the said Date and Tenour thereof, and as it was then professed within this Kingdom, together with the said General Band, dated in Anno 1589, as they will answer the contrary upon their Obedience; and ordains Officers at Arms to pass to the Market-Cross at Edinburgh, to make publication hereof, and at all other Places needful, wherethrough none can pretend ignorance of the same.

14 Caroli.

An Act of the Secret Council, approving the King's discharge of the Service-Book, &c.

The Lords of Secret Council having read, and maturely considered his Majesty's Letters, and particular Declaration of his Pleasure anent the annulling of the Service-Book, Book of Canons, and High-Commission, discharging the pressing of the practice of the five Articles; making all Persons, Ecclesiastick or Civil, of what Title or Degree soever, liable to the Trial and Censure of Parliament, General Assembly, and other Judicatories competent, anent the not administering to Ministers at their Entry any other Oath, than that which is contained in the Act of Parliament, anent the subscribing and renewing the Confession of Faith, subscribed by his Majesty's Father, of blessed Memory, and his Household, in Anno 1580, and Band following thereupon, anent the indication of a General Assembly to be holden at Glasgow the 21 of November, 1638, and Parliament at Edinburgh the fifteenth day of May 1639, and anent his gracious Goodness in forgetting and forgiving all by-gons, and an indication of a Fast, for craving God's blessing to this Assembly; find themselves so fully satisfied therewith, and the same to be satisfactory for removing all the Fears of the Subjects anent Innovation of Religion or Laws, that We hold our selves bound in Duty, not only to acquiesce therewith, as the best mean to secure both Religion and Laws, but also to use our best endeavours, that all his Majesty's Good Subjects may likewise rest satisfied therewith, and that they with Us, and We with them, may testify our thankfulness for so great a Grace and Goodness, with all the hearty expressions of Dutifulness and Loyalty. And that our true sense hereof may the more clearly appear to our Sacred Sovereign, We do by these humbly and heartily make offer of our Lives and Fortunes in defending and assisting of his Majesty's Sacred Person and Authority, in the main-

Sept. 22. 1638

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tenance of the foresaid Religion and Confession, and repressing all such as shall hereafter press to disturb the Peace of this Kirk and Kingdom.

In Witness whereof, We have heartily and freely subscribed these Presents with our hands at Hally-Rood-House, the 22 day of September, 1638, by the Persons ut supra.

The Letter of the Secret Council, giving thanks to the King for his discharge of the Service-Book, &c.

Most Sacred Sovereign,

IF ever Faithful and Loyal Subjects had reason to acknowledge Extraordinary Favours shown to a Nation, and in a most submissive and hearty manner give real demonstration of the Grace vouchsafed, then do We of your Majesty's Council of this your ancient Kingdom unanimously profess, That such Acts of Clemency vouchsafed Us, cannot proceed from any Prince, saving him who is the lively Image on Earth of the Great God, Author of all Goodness, for return of so transcendent Grace, fortified with the real Expressions of unparallel'd Piety, Roial inclination to Peace and universal Love; not only to those of Our number, but likewise to all your Majesty's Loial Subjects, We do all in one Voice, with all resentment can be imagined, in all humility, render our most bounden Thanks, and offer in Testimony of our full satisfaction and acquiescence herewith, to sacrifice our Lives and Fortunes in seconding your Sacred Majesty's Commandments, and repressing all such as shall hereafter press to disturb the Peace of the Kirk and Kingdom. And for some small signification of our alacrity and diligence in your Sacred Majesty's Service, We have all, without the least shadow of any scruple, subscribed the Confession of Faith, and Band, appointed to be received by all your Majesty's Loial Subjects, since the Act passed in Council, with our other Proceedings, which We do most humbly present to your Roial view; and we beseech your Majesty to be pleased, to be persuaded of the inviolable devotion of all her Subscribers, who do all in humility pray for your Majesty's happy and most flourishing Reign, by the Persons ut supra.

The Letter of the Provost, Bailiffs, and the Council of Glasgow, giving thanks to his Majesty for the discharge of the Service-Book, &c.

Most Honourable, and our very good Lord,

HAVING received a Letter directed from your Grace to Us, with this Bearer your Grace's Cousin; and having read the same, and heard and weighed his Majesty's Gracious Proclamation, which was this day proclaimed within this City, to the great joy of all the Hearers, We cannot but praise God, who hath endued his Sacred Majesty, our dread Sovereign, with such Wisdom, Piety, Clemency, and Fatherly Care of this Church and Kingdom, and pray God for a long and happy Reign to his Sacred Majesty, and his highest Posterity over Us and succeeding Generations, and shall ever endeavour to approve our selves his Majesty's most
Loial

Loial Subjects, and wish from our Hearts, all Happiness to your Grace, and Graces most Noble Family, for the well-wishing to this City, and especially for the great pains taken by your Grace in so weighty Imploiment, hoping and praying to God, that the same may obtain the wished for accomplishment, and shall ever remain,

14 Caroli.

Glasgow, this 24th of
Septemb. 1638.

Your Graces most Humble

and Obedient Servants,

James Steward, *Provost.*
John Anderson, *Bailiff.*
Colme Campbell, *Bailiff.*
Ninian Anderson, *Bailiff.*
Gabriel Cunningham.
William Stewart.
Mat. Hamiltoun.
Colme Campbell.

John Barnes:
Richard Allane.
Walter Stirling.
Gavine Nesbitt.
John Anderson.
Robert Homer.
Patrick Bell.

The Letter of the Ministers to the same effect.

Most Honourable, and Our very Good Lord,

HAVING received the Letter directed from your Grace, and having heard and considered his Majesty's most Gracious Proclamation, published this day in this City, with joiful Acclamations universally of the Hearers, as We of the Ministry and University of Glasgow, who were present, with great contentment and joy of Heart applauded thereto; and do praise God, who hath inspired our Dread Sovereign with such Wisdom, Piety, Clemency, and Fatherly Care of this Church and Common-wealth of this Kingdom, as is abundantly manifested in the said Proclamation; so We would gladly testify, by what means We can, our thankfulness to his Majesty, our Crown of Rejoicing, and the Breath of our Nostrils: Not omitting our bounden Duty to your Grace, whom God and his Majesty hath appointed so fit and happy Instrument in this great Errand, for your singular Prudence, rare Piety and Zeal to God, your Prince, and Country, and incredible pains in this honourable and weighty Imploiment; which We pray God may still prosper in your hands, until it be brought to a full and blessed conclusion, being willing for our part, to contribute what lieth in our poor power, by our earnest Prayers, and best Endeavours.

Septemb. 24.

Your Graces most Humble

Glasgow, Sept. 24.
1638.

and Obedient Servants,

Mr. Blair.
Jo. Strang.
John Maxwell.
Will. Wilkie.
Pa. Maxwell.

John—
Mr. Ro. Wilkie.
Mr. Maxwell.
Mr. Bell, Younger.
Mr. Ja. Forsythe.

The

An. 1638.

The Marquess promotes the Proclamation and Confession of Faith.

The Covenanters still oppose the Confession of Faith.

The Marquess consults the Nullities of the Assembly.

The Marquess at this time writ to all the King's Friends throughout *Scotland*, to see his Majesty's Proclamation published, and to get in as many Subscriptions to the Confession of Faith as was possible, and to have an eye to the Election of Commissioners to the *Assembly*, that they be well considered of in order to this Service. The Marquess did cherish Marquess *Huntly*, and the Doctors of *Aberdeen*, who were well-affected to his Majesty; and the said Doctors the only persons then in *Scotland* fit to undertake the defence of *Episcopacy*.

Many did at first offer to signe the Confession, which the Covenanters perceiving, they endeavoured to perswade the People that all this was done only to avoid the present Storm, which would be no sooner calm'd, but they might expect worse usage then ever, and with this they added a great many Reasons to perswade all that it was *Perjury for such as had taken the Covenant, to Sign the King's Confession*.

The Marquess seeing how things were carried about Elections, begun to draw up the *Nullities of the Assembly*, sending the particulars to the King as he had them, advising his Majesty withal to go on more frankly with his Preparations, since he saw it impossible to prevent a Rupture at *Glasgow*.

At this time the King's Declaration for subscribing the Confession of Faith was published throughout all the Shires in *Scotland*, in some it met with Protestations from the *Tables*.

And upon *October 5th* the Bishops and Doctors of *Aberdeen* signed the Confession of Faith with these Restrictions following.

' First, We do heartily abhor and condemn all Errors truly *Popish*, or Repugnant to the holy Scripture, and consequently to the Uniform Doctrine of the Reformed Kirks, and to our National Confession, Registred in Parliament, *An. 1567*.

' 2. We do no ways hereby abjure or condemn Episcopal Government, as it was in the days, and after the days of the Apostles in the Christian Kirk for many hundred of years, and is now conform thereto restored in the Kirk of *Scotland*.

' 3. We do not hereby condemn nor abjure the five Articles of *Pertb*, or any thing lawful of that sort which be found by the Church conduceable at any time for good Policy and Order, or which is practised by any sound reformed Kirk.

' 4. We still hold to that Clause of our great National Confession (Chap. 20. Art 21.) that the General Councils, and consequently the National Kirk of *Scotland*, have no Power to make any perpetual Law, which God before hath not made.

' 5. By the adhering to the Discipline of the Reformed Kirk of *Scotland*, we mean not any immutability of that Presbyterial Government which was *An. 1581*, or of any humane Institution: but we do hereby understand that the Ecclesiastical Jurisdiction and Discipline of the Kirk of *Scotland* doth not depend on the Pope of *Rome*, or any other Forraign Power; and hereby we do confess our constant Obedience to the Kirk of *Scotland* in all her lawful Constitutions.

' 6. We do not presume by this our Personal Oath, either to pre-judge the liberty of the Kirk of *Scotland*, to change and reform this foresaid short Confession in some Ambiguities and obscure expressions thereof, whereupon some Men have builded inconvenient Interpretations and Doctrines, or to exime our selves from Obedience to the Kirk in that case.

7. By

7. By this our personal Oath we do not take upon us to lay any further Bond upon our Posterity, than the Word of God doth, recommending only our Example to them so far as they shall find it agreeable to God's Word. 14 Caroli.

In this sence as is said, and no otherwise do we subscribe the said Confession and the General Bond annexed thereunto at *Aberdene*, October 5th, 1638.

Signed,

Ad. Aberdonen.

John Forbes, D. & P. of Div.

Al. Ross, D. D.

Ja. Sibbald, D. D.

Al. Scrogie, D. D.

Will. Lessey, D. D.

The Marquess was pressed by the Bishops to prorogue the Assembly, with which he acquainted the King, who writ to the Marquess,

That he should receive a particular Answer by my Lord of Canterbury of all his Propositions touching the Assembly. As for the opinions of the Clergy to prorogue this Assembly, his Majesty utterly disliked them, for that it would more hurt his Reputation by not keeping it, than their mad Acts could prejudice his Service; wherefore he commanded the Marquess to hold the Day: But (as the Marquess writ) if he can break them by proving Nullities in their Proceedings, nothing better. Lastly, concerning Assessors, his Majesty likes their Names, and (as the Marquess writ) *he must not suffer his Majesty to lose his Privilege.*

The King against proroguing the Assembly.

In the end of October the Earl of Rothes, with the other Covenanters, petitioned for a Warrant to cite the Bishops to appear before the Assembly. The Marquess answered, *the Law was open* for citing all such as were either within or without the Country; but for him to give Warrants for that Procedure, was without Precedent, and so could not be granted; for it was enough that he did not protect them against Trial. Whereupon the Covenanters addressed themselves to the Presbytery of Edinburgh, who gave Warrant accordingly for a Summons: but those whose Judgments were for Episcopacy, said it was a most scandalous Summons that ever was heard of in a Christian Church, all the Bishops being cited as guilty of *Heresy, Simony, Perjury, Incest, Adultery, Fornication, breach of Sabbath, &c.* and they ordered this to be read in the College Church of Edinburgh after Communion, and ordered to be read in all Churches in Scotland, which was accordingly done. They also sent Orders through all Scotland to search into the Bishops Conversations, that all their Escapes and Faults being gathered together, and Witnesses cited to Glasgow, they might find pretence of Justice against the Bishops.

The Covenanters move the Marquess for a Warrant to cite the Bishops to appear; but he leaves them to the Law.

Upon the first of November, the Session or Term sat down at Edinburgh; and the Marquess having dealt with all the Lords of the Court before-hand, went thither to get them sign the *Confession of Faith*, and at length nine of fifteen signed; two were absent, and four refused; but those who signed it, durst hardly walk the streets.

The Session sat down of Edinburgh.

Most of the Judges sign the Confession.

The

An. 1638.

The Marquess having received his Instructions as to his deportment at the Assembly appointed to meet at *Glasgow*; and the King having perused the Speech the Marquess was then to make, he began his Journey towards *Glasgow* on the 16th of *November*, and required the King's Advocate to prepare himself there to defend Episcopacy to be according to the Laws of *Scotland*; but his Answer was, That it went against his Conscience so to do, and that he judged Episcopacy both contrary to the Word of God, and to the Laws of this Church and Kingdom; So he prevailed with the Advocate not to go to *Glasgow*.

On the 17th of *November* the Marquess arrived at *Glasgow* in a quiet and peaceable manner, none of the Train carrying with him any prohibited Arms; there met him a Letter from the Bishops of *Ross* and *Brechin*, informing him that they had given Dr. *Hamilton* Directions and Deputations to act on their behalf, and that his Name is inserted in the Procuratory, which is in the close of the Declinator; and desires the Marquess, That the Protestation that they have prepared and sent, may be secretly kept, and seasonably presented, before either the Cause, or they that are Bishops suffer wrong. There met him all the Privy-Council, except the Bishops, according to a Letter which the King had writ to them, to assist him at the time of his being there, with their best Concurrence and Counsel.

We desire here leave to break off as to *Scotish* Affairs, because the Account which we give of the Proceedings of that Assembly, and the subsequent Passages afterwards, are of some length: and therefore to divert the Reader, we will return to Affairs in *England*; and first to mention the Trial of *Claxton* and *Lilburn*, which was omitted in our *Collections* in *August* last.

Ralph Claxton, Demandant, }
Richard Lilburn, Tenant, } Before Judge *Barkley*.

Durham ff.
August 6.

THE Demandant, the first day of the Session or Court of Pleas, the 6th of *August*, did appear about ten of the Clock in the Forenoon, by *Richard Matthew* his Attorney, and brought in his Champion *George Cheney* in Array, who cast his Gantlet into the Court with five small Pence in it.

The Tenant likewise appeared by *William Sedgwick* his Attorney, and brought in his Champion *William Peverell* in Array, who cast his Gantlet into the Court with five small Pence in it.

After some examination of the Proceedings in the Cause, the Parties and their Champions were adjourned till three of the Clock in the Afternoon of the same day.

At that hour the Demandant was called, and appeared by his Attorney with his Champion. So did the Tenant and his Champion.

Then after Discourse had of it by the Judge, and some examination of the Champions, the Judge did adjourn them over till eight of the Clock on *Tuesday* the 7th Instant. At which time the Parties and their Champions appeared as before, and were adjourned till three of the Clock after Dinner.

At

At which hour the Parties and their Champions appeared, and were adjourned over till *Wednesday* at eight of the Morning.

14 *Caroli.*

At which day and hour the Parties and their Champions appeared as before, and put in their Pledges (as at the Court holden the 7th of *July*) to appear at the next Court of *Pleas* to be holden the 15th of *September* next.

Memorandum; That the Champions were committed to the custody of two Bailiffs, by direction of the Judge, and continued in their hands until eight of the Clock on *Wednesday* the 8th of *August*, when they put in their Pledges to appear at the next Court.

The 15th of *August* 1638, I received this Copy from Mr. *John Stephen*.

John Morland.

Concerning *Claxton* and *Lilburn* their Trial by Battel.

HIS Majesty this day sitting in Council, was made acquainted, That there had bin several days appointed for determining by Battel the *Question of Right*, which had long depended between *Claxton* Demandant, and *Lilburn* Tenant, for certain Lands in the *County Palatine of Durham*. And that by the late Appointment, the same was to be tried by the said Parties Champions the 22 *Decemb.* next. It was by his Majesty ordered, That the Judges of that Circuit, upon conference with their Brethren, should be thereby prayed and required to take the same Case into due and serious consideration; and if they could find any just way by Law how the said Combat might be put off, and the Cause put into another way of Trial; for his Majesty, out of his pious care of his Subjects, would have it so, rather than to admit of a Battel. But otherwise, since *Lilburn* had a Judgment upon a Demurrer against *Claxton*, and also Costs from the Board for his Vexation, and since that *Claxton* had brought a new Action, upon which *Lilburn* had waged Battel, his Majesty would not deny the Trial of Laws, if it could not be legally prevented.

Afterwards both Parties brought their Champions into the Court of *Durham*, having *Sand-bags* and *Battoons*, and so tendred themselves in that fighting posture: But the Court upon the reading the Record, found an Error in it, committed by a mistake of the Clerk, (some thought wilfully done) whereupon the Court would not let them join Battel at that time.

Thus did the Court several times order to avoid Battel by deferring the Matter, though Champions on both sides were ever present in Court at all Meetings to join Battel.

This proved an Omen to what the next Year produced, by a greater appearance of a Battel, when the King's Army was at the Camp at *Berwick*, and the Scots on the other side of *Tweed*, yet both Armies parted also without Battel.

This *Richard Lilburn* Tenant in this Cause, was Father to *John Lilburn*, who was Censured in *Star-Chamber*.

Here followeth the Opinion of the Judges in this Cause of Trial by a Battel, upon a *Writ of Right*.

An. 1638.

Claxton *versus* Lilburn.*A Writ of Right in Durham,*

Judges Opinions as to the Trial by Battel between Claxton and Lilburn.

THE *Tenant* waged Battel, which was accepted; and at the day to be performed, *Berkley* Justice there, examined the Champions of both Parties, whether they were not hired for Money? And they confessed they were: Which Confession he caused to be recorded, and gave further day to be advised. And by the King's direction, all the Justices were required to deliver their Opinions, whether this was cause to de-arraign the Battel by these Champions? And by *Bramstone* Chief Justice, *Davenport* Chief Baron, *Denham*, *Hutton*, *Jones*, *Cook*, and other Justices, it was subscribed, *That this Exception coming after the Battel gaged, and Champions allowed, and Sureties given to perform it, ought not to be received.*

Directions to the Lord Lieutenants concerning the Trained Bands.

THE usual Directions of the Board heretofore given, and especially of late Years, concerning the Trained Bands of this Kingdom, have bin so full and exact, as might make his Majesty and the Board confident, both of the sufficiency of your Arms, and of the skill and readiness of the Men that are to use them. Nevertheless, lest the aforesaid Directions and Commands should not have bin so effectually pursued as was required and expected, his Majesty in the watchfulness of the defence of his Kingdom, and for the safety of his People in these times of Action, hath signified his express Will and Pleasure to be, That instantly, upon receipt hereof, you cause an exact View and Muster to be taken and made of all the Arms and Trained Forces, both Horse and Foot, within the County of under your Lieutenancy; and to see that the said Arms be serviceable and compleat; And that by the Muster-masters, and other fit and experienced Officers, you cause all the Trained Souldiers of the aforesaid County, to be forthwith trained, and perfectly instructed in their Arms, and the like course to be continued from time to time; and that the Commanders and Officers apply themselves also to know and perform the Duties of their several Charges; And that you take especial care that both Commanders, Officers, and Souldiers be very able and sufficient Men. That you take order, that all the Trained Bands be so in readiness, as to be fit to repair to their Colours, or place of Rendezvous, which shall be assigned them, upon any occasion, with their Arms and Provisions, upon a days warning. And that all the Able Men within that County, besides those of the Trained Bands, from the Age of sixteen to threescore, be also listed and inrolled, that upon any sudden Occasion, such Levies may be made likewise of them as shall be required; and the Copy of the said List, or Inrolement, to be forthwith returned to the Board. That you deal seriously and effectually with the better sort of Men to provide themselves with Arms for their particular use; to the end, that with the help of those, and such other Arms and Weapons as shall be found within the aforesaid County, as many of the untrained Men as is possible, may (as there shall be occasion and direction from his Majesty or the Board) be also furnished and exercised.

cised, and reduced into Bands under Captains and Officers, That your Lordship take especial care, that the proportion of Powder, Match and Lead appointed for that County respectively, be forthwith provided and put in Magazines, to be in readiness upon all occasions of Service. That you cause the Beacons to be forthwith made up and repaired with provision of Wood, and other Materials requisite to be in readiness, to give Fire unto them, and to cause them to be diligently watched by discreet and sufficient Men. That you appoint some able and meet Person to be Provost Marshal within the aforesaid County, for the apprehending and punishing of such vagrant and idle Persons, as live not in any lawful Vocation, and in Times of Suspicion or Trouble may by Tales and false Rumours *distraet the Peoples minds*; or otherwise in fact to commit Insolencies and Outrages. And to the end that we may be duly and speedily informed of all such things concerning this Service, and which are necessary for Us to understand for the advancement thereof, and the applying of fit Remedies where any Defects shall be found, We do pray and require your Lordship to give us an exact Account of the state of the Forces of the aforesaid County, and of the performance of these our Directions with all possible diligence and expedition. And so we bid, &c.

14 Caroli.

Postscript.

Where your Lordship shall find it inconvenient, either in respect of the unseasonableness of the weather, or any other considerable circumstance, to draw together from remote places, and to exercise the Trained Bands in compleat Bodies, We leave it to your discretion, (provided that the work be sufficiently done) to take view of the Arms upon the place or places, and to exercise the Men apart, and in smaller Bodies within their several Divisions.

CHARLES REX.

Right Trusty and Right Welbeloved Cousin, We greet you well. The late Disorders in Our Realm of Scotland, began upon pretence of Religion, but now appearing to have been raised by Factions spirits, and fomented by some few ill and traiterously affected particular Persons, whose aim hath been by troubling the Peace of that our Kingdom, to work their own private ends, and indeed to shake off all Monarchial Government, though We have often assured them, that We resolved to maintain constantly the Religion established by the Laws of that Kingdom, is now grown to that height and dangerous consequence, that under those sinister pretences, they have so far seduced many of our People there, as great and considerable Forces are raised and assembled in such sort, as we have reason to take into consideration the Defence and Safety of this Realm of England; and therefore upon due and mature consultation with the Lords of our Council, We have resolved to repair in our Royal Person to the Northern parts of this our Realm, there (by the help of Almighty God, and the assistance of our good Subjects) to make resistance against any Invasion that may happen.

Jan. 26.
The Kings Letter, certifying his Resolution of going in person into the North with an Army against the Scots, directed to most of the Nobility.

And to the end that this Expedition, may be as effectual as we design to the Glory of God, the Honour and Safety of Us, and of this

An. 1638.

our said Kingdom of England, We have directed that a considerable Army both of Horse and Foot, should be forthwith levied out of all the Shires to attend Us in this Action, wherein we nothing doubt, but the Affection, Fidelity, and Courage of our People shall well appear.

In the mean time, we have thought fit, hereby to give you notice of this our Resolution, and of the state of our Affairs, and withall hereby to require you to attend Our Royal Person and Standard at our City of York, by the first day of April next ensuing, in such Equipage, and such Forces of Horse, as your Birth, Honour, and your Interest in the publick Safety do oblige you unto, And as we do and have reason to expect from you. And this our Letter shall be as sufficient and as effectual a Warrant and Discharge unto you for the putting of your self, and such as shall attend you, into Arms, and Order as aforesaid, as if you were authorised thereunto by our Great Seal of England. And we do require you to certifye Us under your hand within fifteen days next after the receipt hereof, what Assistance we shall expect from you herein, and to direct the same to one of our Principal Secretaries of State. Given under our Signet at our Palace of Westminster the 26th day of January in the fourteenth Year of our Reign.

Exam. P. Warwick.

At the Court at *Whitehall*,
the 27th of *January*, 1638.

Present

The King's most Excellent Majesty.

Lord Arch-Bp. of *Canterbury*,
Lord Keeper,
Lord Treasurer,
Lord Privy-Seal,
Lord Duke of *Lenox*,
Lord Marquess *Hamilton*,
Lord High-Chamberlain,
Earl Marshal,
Lord Admiral,
Lord Chamberlain,

Earl of *Dorset*,
Earl of *Salisbury*,
Earl of *Holland*,
Lord *Cottingham*,
Lord *Newburgh*,
Mr. Treasurer,
Mr. Comptroller,
Mr. Vice-Chamberlain,
Mr. Secretary *Cook*,
Mr. Secretary *Windebanck*.

This day was read at the Board (His Majesty sitting in Council) the Draught of the Writ hereafter mentioned, and by His Majesty's express Command, it was ordered, That Mr. Attorney-General should be hereby required forthwith to send Writs accordingly to the Lord William Howard, the Lord Clifford, the Lord Wharton, the Lord Grey of Wark, Sir Richard Lumly Knight, Viscount Waterford in Ireland. Mr. Attorney is to take care not to fail to issue out these Writs.

By

By which Writs they were required to repair into those Parts with their Families and Retinues, sufficiently arm'd, for the safety and defence thereof, under the penalty of having their Lands, Goods and Chattels in those Counties seised into his Majesty's hands, by the Revenue whereof he will maintain others for the guarding of those Parts in their default. See the Writs at large in the *Appendix*.

In like manner Writs were sent to the Mayors of the Towns of *Hull* and *Newcastle*, for the fortifying of those Towns at the charge of the Inhabitants, according to the practice of former times.

Many old Souldiers which imbraced the War as their Profession, many Voluntiers of the Gentry tendred their Service to the King; which being represented to the Privy-Council, It was resolved that all Subjects who voluntarily desired to arm themselves either at home, or from abroad, should for Themselves and their Associates therein, have all Liberty and Encouragement; as likewise for their Assembling, Exercising, and Disciplining all Voluntiers that shall offer their Service in this kind; and that Licence in this behalf be given them under the hand of the Earl Marshal of *England*, which shall be to them a sufficient Warrant.

The Privy-Council sent forth Orders to the Lords Lieutenants of the Counties, for the levying of Foot-men, to be conducted to the Town of *Selby* upon *Ouse* near *Tork*, there to be delivered to the Captains and Officers ready to receive them by the first of *April* next, the Counties being to defray the charge of Conduct, which should be repaid out of the King's Exchequer.

—Also a certain number out of the Trained-Bands appointed to be selected, exercised, and kept in readiness, were called for, whereof two parts were Muskets, and a third Pikes, to be conducted, as before expressed, to their place of Rendezvous, where they entred into the King's Pay.

Likewise certain Prest-men ordered to be sent into *Holland*, to supply the rooms of so many old Souldiers to be brought from thence, to be made inferiour Officers.

All Lords-Lieutenants and Deputy-Lieutenants were ordered by the Council to remain within the Limits of their Lieutenancies.

The Earl of *Bridgwater* was commanded to go into his Presidency in *Wales*, and to give notice to all Governours of Islands and Forts, to repair to their Commands; or, in case they were otherwise imployed in his Majesty's Service, to send able Deputies. And all Captains and Commanders of Forts and Castles were required to reside in their respective Charges.

The Lord Deputy of *Ireland* his Letter to the King, dated *Feb. 10. 1638.* concerning *Scotish Affairs*.

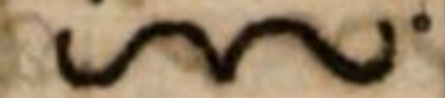
May it please your Sacred Majesty,

‘HAving of late in a short space written sundry Letters, I chose hitherto to forbear answering those of the 28th of *December*, lest my Liberty might seem a violence to the Modesty and Reverence I ought and shall ever observe, so often as I have the Honour to appear before your Majesty be it in Person or Writing.

‘But now the Acknowledgements of your Princely Aspect toward your absent Servant break forth from me.

‘First,

14 *Caroli*



Writs sent to the Mayors of *Hull* and *Newcastle*.

Voluntiers permitted to arm themselves.

Rendezvous to be at *Selby*, *April 1.*

March 23. Lords Lieutenants, &c. to remain in their Country.

The Lord Deputy of *Ireland*'s Letter to the King.

An. 1638.

‘First, In a most humble sense of your gracious admitting me the Honour to perform unto the Queen a small Service, in the Suit I last mentioned, and thereby express my ambition to be commanded something by her Majesty.

‘And next, the comfort I have to find my self under the protection, and shelter of your Majesties most excellent Judgment and Justice, all along that storm raised in my Country (when I least looked for it) by the Earl of *Holland*, and others.

‘The Passages indeed I have understood from Mr. *Raylton*, for which I most humbly thank your Majesty.

‘It seemeth the Earl of *Holland* now saith, That he never refused to be examined; excepting only against the looseness of the Interrogatories. Sure his Lordship hath thought better of it of late; for, either I have bin strangely misinformed, or at first his Lordship insisted positively, That by his Priviledge of a Peer and Counsellor, he ought not to be examined at all, and laboured to procure an Order at the Council-Board it self to settle it accordingly.

‘Then your Majesty conceives, I should have looked so into the Interrogatories, as might have rendred them without exception. I have bin heretofore thrice *Defendent* and twice *Plantiff* in that Court; and upon my Faith, Sir, never read over any Interrogatory in all my Life, this being the Work of the Solicitor and Counsel, and not of the Client; and so having given Direction, nothing should pass of that kind, but under the Eye of your Majesty’s Attorney General, and Solicitor; I held my self by that means safer, and in a more perfect way, than any poor advice or skill of mine own could have set me, albeit I had bin present upon the place.

‘As for that which your Majesty with so much tendernefs, above any merit, or consequences of my poor Services, mentions in the latter part of this gracious Letter concerning Sec. *Win.* 182. I beseech your Majesty believe, that I have so intirely assigned my Will and Affections to your Pleasure; am so perfectly delighted to follow and serve you your own way, how much soever my private Opinion might else lead me into your Paths; that there is neither Person, nor Thing, that I shall not readily and chearfully join hands withal, where your Majesty is pleased once to signify it is fit for your Service to have it so, how much more then with this Lady, against whom I protest I never had the least Exception for any private interest of my own.

‘And here having answered the former, I receive your Majesty’s other Letter of the 28th of *January*, this 5th of *February*.

‘By the Blessing of Almighty God, these five hundred Men, provided in all respects as becomes your Service, shall be at *Carlisle* by the first of *April*, according to your Majesty’s appointment, nothing but cross Winds to hinder; for that favourable, I will have them all on Board, and moving thitherward by the 20th of the next month, provided of fifteen days Bread and Beef, for Cheese this Place affords none: But still, under favour, methinks the Garrison of *Carlisle* would not be less than 200 Horse and 1000 Foot, and that of *Berwick* 400 Horse and 2000 Foot.

‘I congratulate exceedingly the forwardness of your *English* Subjects, the readiness of your Army, and your gracious Purpose of going in Person to *Tork*, as passing wise and noble, will give infinite

'nite chearfulness to your Army, countenance and advantage to all
'your Affairs; yet I trust there is no thought of your going any
'further. It will be sufficient the rest under your Majesty's Directi-
'ons be managed by such as have that Charge committed to them.

'The Season of this Year is so past, as nothing can be done in pre-
'sent, but against the next Winter. If I knew the Proportions, I
'conceive I might, at good Rates, victual *Carlisle* with Beef, Butter,
'Corn, or Bisket, and Herring, to be delivered at *White-haven*, and
'so carried thirty miles over Land to *Carlisle*; and after I understand
'your Pleasure, shall attend that Service, as all other your Gracious
'Commands, with my uttermost care and pains.

'My Lord of *Antrim* doth not by one word make known his desire
'to me for Arms, which is advisedly done; his Lordship perceiving
'I am not ignorant of his great want of Mony; his credit to be so
'low, as not able to take up, at this very instant, in this Town poor
'*three hundred pounds*, therefore his great Undertakings are more like
'to be believed on abroad, than they would be nearer home. I shall
'be able to furnish him with Arms, when the Supply comes We
'have sent for into the *Low-Countries*, if it be your Pleasure to have
'it so: But I crave to know who it is your Majesty purposeth shall
'pay for them.

'Yet I might accuse my self, should I not humbly certify your Ma-
'jesty, I am altogether of opinion, his Lordship in so great a streight
'of his own Fortune, is not a Person at all to trouble the Earl of *Ar-*
'*gile* now come back again into *Cantire*, or in present much confide-
'rable to your Majesty's Affairs; and confident I am this will appear
'most true, how great soever his desires on that side are expressed, and
'I may believe them to be to serve the Crown.

'The Secrets your Majesty gives me in charge, shall never be disco-
'vered to any Creature; yet that I be not thought upon for other
'Mens faults, I send inclosed a passage that I my self read in a Letter
'writ thence to Captain *Biron*. The Writer is one Mr. *Daniel Neal*,
'a very slight and busy Person. His principal dependance on the
'Earl of *Antrim*; and if I be not mistaken, very conversant at *Arun-*
'*del-House*: Nevertheless my hands once freed of this Packet, I shall
'so colour the Matter, as to take away all thoughts of going to *Car-*
'*lisle*.

'Mr. *Raylton* informs me, There are Summons gone out for all the
'Nobility to attend your Majesty at *York*, Letters made ready for
'me among the rest, which your Majesty was pleased to order the
'stay of, for which I thus return my most humble Thanks.

'Were I not really and importunately fixed by my Employment, as
'a decent Compliment at least to the Peace and Safety of the Affairs
'on this side, I should be most mightily out of countenance to be
'found in another place, than at your Majesty's Feet, to receive and
'execute your Commands, to the utmost of my Power and Life.

'Yet, Sir, I am your most obliged Creature, why should I be cared
'for, or considered, where your greatest Interests are in question?
'Hence it is, that I thought of sending thither fifty of my Horse-
'Troop, but that they are not to be supplied again on this side, nor
'durst I disfurnish your Service of them here, and to furnish so many
'there, my self absent, and in so short a time, I am out of hope:
'yet I have thought of another Expedient, which perchance may
'prove

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prove as much for your Service, as good in the Example, which I humbly crave may be accepted.

Therefore, if it shall not please God to put the *Scottish* Subjects into their right Wits again, that they do not humbly and repentantly conform to your Majesty's Will: I shall give order that for this next Year, there be paid at *York* to Sir *William Udall*, your Treasurer for the Wars, as my Rents come in, one thousand Pounds at *Midsummer*, and one thousand pound at *Christmas*; and if this be not sufficient, I do most humbly beseech your Majesty command all I have there to the uttermost Farthing.

Nor have I on this side more Friends than three, that have Lands there; and I am desired, by the Master of the *Rolls*, and Sir *George Radcliff*, that 500*l.* betwixt them may be accepted upon the same terms, and same days of payment: And in like manner a young Captain of your Majesty's, my Brother, that hath some Fortune by his Wife there, 100*l.*

Our Sons are all Children; but if they were able to bear Arms, we should send the young *Whelps* to be entred into your Majesty's *Militia*, judge it to be their greatest honour it might be so; and for a Conclusion, so as it might be better for your Service, hang up the old *Dogs*.

Above all, I beseech your Majesty intend your Horse, and make your self as strong in them as possibly can be effected in this short time: For as it will be no great difficulty to your Majesty to overtop your Rebels, and Master them in Horse; so shall that Point gained, and fortified alone, secure your Kingdom of *England* from the prejudice it might otherwise sustain, if they went forth to such Insolence, as to make an Offensive War upon the Crown.

My next Work, I fear, will be to trouble your Majesty with a Letter touching my own Particular. I beseech you vouchsafe to read it; and after, rather than disquiet your Majesty, or your Affairs, burn it, and command Mr. *Raylton* to go on with the Examination, as it is already directed; only, Sir, there is a Credit, which among Men, I ought so far forth to care for, as it may enable me to fulfil your Commands with more Effect and Honour, which I trust howsoever will plead my excuse. The Great God of Battels long and long preserve your Majesty.

Dublin, Feb. 10.

1638.

Your Majesty's

most faithful, and most humble

Subject and Servant,

WENTWORTH.

The Arch-Bishop of *Canterbury*'s Letter to the Clergy, to contribute freely to the War against the *Scots*.

After

14 Caroli.

Feb. 11.

The Arch-Bishop of Canterbury's Letter to the Clergy.

After my hearty Commendations, &c.

I Have received a Warrant from the Lords of his Majesty's most Honourable Privy-Council, which requires me to write to all the Bishops in my Province to call their Clergy together, and put them in mind of the great danger this Kingdom is in, by the traiterous Conspiracies of some ill-affected in Scotland. These Seditious Persons have begun, and continued hitherto their foul Disloyalty under the pretence of Religion, which by factious Spirits in all times is made the Cloak to cover and hide (if it might be) their Designs. But now it appears clearly to the State, that they daily strengthen themselves by Arms and Ammunition, and other Preparations for War. And though his Majesty hath graciously condescended to more than they could justly ask in all things concerning their Religion and their Laws, yet they go on still, and are satisfied with nothing but their rebellious Disobedience, and have no less aim than to invade or annoy England. The Letters to the several Bishops I have sent, as I was commanded, and I doubt not but they and the Clergy in general will give very freely towards this great and necessary Defence of the Kingdom. And because this great and common Danger cannot be kept off, but by a common Defence; and for that the Reverend Judges, and others of the Common Law have bountifully expressed themselves already; I am required to write to you also, that you calling to you the rest of the Doctors of the Commons, propose to them now while most of them are together, this great and weighty Business belonging as much to their Defence as to other Mens; and let every Man set down what he will give to this Service: when this is done, I will acquaint his Majesty with it, and yours and their forwardness herein. And it is expected that you hasten this with all convenient speed. So to God's blessed Protection I leave you, and rest,

Lambeth, Feb. 11.

1638.

Your very loving Friend,

W. CANT.

POSTSCRIPT.

You must send to such Chancellors and Officials as are not at the Commons, but at their several Residences; and if you give them a good example here, I doubt not but they will follow it.

You shall not need to call to Sir Henry Martin, for his Majesty will send to him himself, and looks for a greater Sum than in an ordinary way.

The Scots understanding that the Parliament was to meet in England the 13th of April, dispersed among the People of England, especially in London, a Pamphlet containing a Scottish Declaration to satisfy England of the sincerity of their Intentions and Actions, which was published by order of the General Assembly of Scotland, Entituled,

An. 1638.

An Information to all good Christians within the Kingdom of England, from the Noblemen, Barons, Burrows, Ministers of the Kingdom of Scotland, for vindicating their Intentions and Actions from the unjust Calumnies of their Enemies, as followeth.

Feb. 4. 1638. but
'tis 1639 in
Scotland.

THE work of Reformation now renewed and far advanced in this Kingdom, hath in the whole progress met with all the oppositions which the subtil malice of Rome's Emissaries could plot: But God hitherto has disappointed all their Intentions, and turned *Achitophel's* Wisdom into folly. And now when they cannot beat down the Walls of *Jerusalem*, they labour to undermine it with Calumnies, according to the damnable Maxim, *Calumniare audacter, & semper aliquid hærebit.* And, like *Tobias, Sanballat*, and such like, and will not be wanting to oppose mightily the Building of *Ezra* and *Nehemiah*, by saying to the King, *Why is the Rebellious City builded?*

The same steps are now traced by the Authors of Innovations in this Church, who taking the advantage of their opportunity (which we want, to our great regret) and being greatly assisted and stirred up by some of their own Coat, who are pernicious and Popishly affected, do thereupon presume to whisper unto his Sacred Majesty, and spread abroad in their Neighbour Kingdom of *England* most untrue and damnable Aspersions, (over and above the Particulars laid to our charge in the Proclamation of the 18th of *December*, which are largely answered in our Protestation lately published) venting with equal impudency and malice, that we do only pretend Religion, but do intend to shake off the most lawful yoke of Authority, by changing the form of Civil Government; that we intended invade our neighbour Kingdom of *England*, and enrich our selves with the spoils thereof; although our Consciences bear us testimony against those untruths, and make us think so charitably, that no Man understanding rightly Religion and Policy, will give belief unto these Aspersions, forged against the Body of our Church and Kingdom: yet being certainly informed, that the Authors of our Innovations and the arch-enemies of Reformation, have laboured to poison his Majesties sacred Ears with those Imputations, and have dispersed the same with open mouth among the Subjects of *England*, We are forced to vindicate our innocency, and wipe away all impressions which those Challenges might make in the behalf of any: First, by our Supplication given in to the Lords of Secret Council 31st of *January*, and now by our Answer, and publick Declaration unto the World, whereby we take God to witness, That Religion is the only Subject, Conscience the motive, and Reformation the aim of our Designs, for attaining whereof, we have never strayed from the humble and loyal way of petitioning his Majesty for a legal Redress. And do yet according to our bounden Duty, beg the consummation of our happy beginnings by the holding of the *Parliament* for the Ratification of the *Assembly* indicted by his Royal Majesty. And as We have often heretofore professed in our Supplications, religiously sworn in our solemn Covenant with God Almighty, and publickly declared before God and Men in all our Protestations made in the view of Heaven and Earth, That We had never the least intention to cast off our dutiful Obedience unto his Majesty's most lawful Authority: So We do hereby renounce the

Aug. 6. 1639,
the Assembly
met at *Edin-
burg.*

II. 10 same,

same, and solemnly declare, That our loyal Breasts have never harboured any thought against our gracious Sovereign his Person or Government, for whom We daily and earnestly pray the King of Kings to grant a long and happy Reign over us; and when he shall be crowned with Immortality, that there never want one of his Seed rightly to rule us, and to sit upon his Throne so long as the Sun and Moon endureth: For we acknowledge that he is the Lord's Vicegerent swaying the Scepter of this Land, transmitted to him by the succession of so many Royal Ancestors, as no other King in the World can parallel the same, and no other Nation compare with us in the glory of Antiquity, under that lawful subjection to one Line of Native born Princes, which we will never deface by any unnatural and impious cogitations against the Lord's Anointed, but heartily wish that Shame and Confusion may be printed upon the face of his Enemies, And that We may be happy in the occasion to expose our Lives and Fortunes to the greatest hazard, for maintenance of the Person and Authority of our dread Sovereign, and increase of his Honour. *Let Mercy and Truth preserve the King.*

As for our Intention towards *England*, We attest the ever-living God, (who is conscious of our most secret thoughts) that We never had any such Design or motion to offend, or wrong in the smallest measure any other Nation, much less our Neighbour Kingdom, living in one Isle, under one King, with as little controversy, and with as much affection, as hath been betwixt two Nations once at variance, but now happily reconciled and tied together by the most strict Bonds, which We desire rather to encrease than diminish by any act of unjust Hostility. And albeit we are confident that the improbability of this Challenge will stop the way of all credit to it, yet to confound these Reporters in their malice, we will shortly relate our Regrets and Fears, our Desires and Resolutions with that freedom and sincerity, which may evidence our brotherly respect to the Subjects of *England*, and controul the false Surmises of our intentions against them. We regret together with our dear Christian Brethren of our neighbour Nation, that we should have so evident and sensible experiences of the dangerous Plots set on foot, and entertained by the Church-Men of the greatest power in *England*, for introducing Innovations in Religion, by corrupting the Doctrine, changing the Discipline, daily innovating the External Worship of God, Preaching publickly and maintaining points of *Arminianism* and heads of Popery, defending and advancing Preachers and Professors of that Judgment, and allowing Books stuffed with that Doctrine, Fining and Confining and Banishing all such as in Conscience of their Duty to God labour to oppose the Doctrine, Discipline or Worship of the Church of *Rome*, by their incroaching and usurping upon the King's Prerogative, tyrannizing over the Consciences, Goods and Estates of Persons of all qualities within that Kingdom: And not being content to keep within their own Precincts, did induce, assist, and encourage the pretended Arch-Bishops and Bishops of this Kingdom, to prels not only a Conformity of this our Church with that of *England* in matter of Ceremony, but also with the Church of *Rome* in the Points most substantially erroneous, as appeareth by the *Book of Common Prayer* and *Canons*, found to be a mass of Popish Superstition, false Doctrine and Tyranny, which was

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confessed to have been first plotted, then corrected and interlined in
England, and sent down to their Associates the pretended Archbishops
 and Bishops of this Kingdom, to be printed, and pressed upon the whole
 Church here without order or consent, as the only Form of Divine
 Worship and Government of the Church, to make us a leading Case
 to *England*. And by their Letters to Statesmen, Noblemen and Bo-
 rows (to further the advancement thereof) perswaded his Graci-
 ous Majesty to declare these Books, which are full of Popish Super-
 stition, to be free of it, and to be fit means of edifying this Church,
 and caused his Majesty to prohibit the lawful Meetings and humble
 Supplications of his Subjects under pain of Treason, and to esteem of
 his good Subjects as of Traitors and Rebels, for a discovering this
 wicked Plot, and complaining thereof; And for their renewing of
 their *National Covenant* with God, and their Allegiance to his Majesty
 did threaten them by publick Proclamation with utter extermination
 and ruin, and have by their Calumny moved his Majesty to discharge,
 under the pain of Treason, the sitting of our free General Assembly,
 indicted by his Majesty after so many Supplications, and to engage
 his Royal Word of a Prince, to defend all disobeyers of the Church,
 to threaten and prepare for an inward War against this his most anci-
 ent loyal native Kingdom, to distrust all our Supplications, Oaths and
 Declarations ingenuously and humbly made, and thereby they have
 endeavoured, so far as in them lies, to alienate his Majesties heart from
 his People, and estrange their due bound Affections from him if it were
 possible. And in the end for the full accomplishment of their wick-
 edness (as we are informed) have made his Majesty follow the ad-
 vice and counsel of professed Papists, and to intrust them with the
 chiefeft Offices of the Armies and Arms now preparing, for the threat-
 ned Invasion of this Kingdom: and still intend to raise Jealousies
 in the Body of the one Kingdom against the other, and so to com-
 mit them together, which we beseech God to prevent, and hope it
 shall be above their Malice, the Lord opening the eyes of our Sove-
 reign and of our neighbour Nation, to discover that Treachery where-
 by nothing is intended, but to join the two Kingdoms in bloody War,
 that so Reformed Religion may be extinguished and Popery introdu-
 ced, which then may be easily effected when both sides are weakned,
 and so may be easily suppressed by the Papists, having all Power and
 Offices in their hands, being already too strong in *England*, and encou-
 raged with expectation of Forreign help, ready to accept that advan-
 tage, so much prejudicial to his Majesties Honour, Power and mani-
 fold Declarations for the maintenance of the Reformed Religion,
 whereof he is the Defender. We have also Reason to regret, that any
 within the Kingdom should give more credit to false Calumnies, cun-
 ningly invented to foment their Jealousies, and make them prepare
 for invading their Brethren, than to our solemn Protestations, Suppli-
 cations, Declarations and Covenant with God himself; yet we are ful-
 ly confident that such are drawn thereunto, partly through the Infor-
 mation of our Adversaries, and particularly for lack of clear Informati-
 on concerning our most Loyal and Christian Proceedings: and there-
 fore do most heartily wish, they may with Wisdom and Charity sus-
 pend any further giving credit to things of that kind, till they may
 have occasion to receive full Information of the truth. And we re-
 gret that any should think the standing of Episcopacy in the Church

of

of *Scotland* just ground for Invading of, and making War against this Nation, and consequently to raise up the Old National Bloodshed and Quarrels, which are now happily changed unto a sweet peaceable conjunction of Hearts and Affections, seeing Episcopy in this Church is contrary to our Ancient Reformation, *Confession of Faith*, and Oath of this Church and Kingdom, whereby that Government was abjured, which cannot reasonably offend any other State or Church, who may be ruled by their own Laws and Warrant. But as in every Matter which falleth in deliberation to be put in Execution, Justice should be the Mover and Efficient, and Profit and Honour used to be the End: So especially in this weighty business it should be well pondered, if this Act of Invading us by War, for keeping our Oath to God, and obeying the lawful Constitutions of our Church and Kingdom, be just upon the part of the Invader; or if the benefit of *Re-establishing the Bishops* upon us, will recompence the loss of so much Christian Blood, and the hazards of Dissention and War, whereof the Event dependeth upon the Lord of Hosts. But it is obvious to every Man's Consideration, That this War is by our Adversaries intended for another end, and hath a more deep and dangerous reach, otherwise the Prelates (if either good Christians or Patriots) would rather quit their Minion, Ambition, and worldly Pomp, than engage two Kingdoms with the hazard of true Religion.

And that none may suspect the sincerity of our Intentions, the lawfulness of our Proceedings, or the truth of our Declarations or Accusations against the Enemies of our Reformation and Peace, We are able, and wish to have occasion to justify the same before the World: For unless we should have closed our own Light, and resisted the known Will of God, acknowledged, subscribed, and sworn by his Majesty's Father (of ever blessed Memory) to our Predecessors, in a solemn Covenant with God, and so often confirmed and ratified by Acts of this Church and Kingdom since the Reformation, we could not omit any thing which we have done. And albeit we be one Church and Kingdom, as free, ancient, and independent as any other in the World, yet for clearing of the Mind of our Neighbour Nation from all misinformation and misconception of our Intentions and Proceedings, and to verify the lawfulness and absolute necessity of our Actions and Acts of the late Assembly, We do assure our selves, that if the States of the Parliament of *England* were Convened, and the whole progress of this Business faithfully represented unto them, they would without doubt be so far from censuring or condemning what we do, that they would be moved to become Petitioners to his Sacred Majesty on our behalf, and approve of the equity and loyalty of all our Proceedings in this Cause. And therefore in the mean time we intreat, That no true *English* Heart entertain any Jealousies of Us, who are confident of the innocency of our Proceedings and Intentions, and free hitherto of all Blemishes against our Sovereign and our Neighbour Nation, as we beg the occasion of manifesting the same to them and to all the World, as we have upon the knowledge of these misreports of us, cleared our selves of any such Intention by our great Oaths every one to other, at our most frequent Meetings.

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‘The obtaining of this our so peaceable and just desire, shall not only be comfortable to us their Christian Brethren, serving as a further tie to unite our Affections in time to come, and to stir us up to pour out our hearty Prayers to God on their behalf: but without all question, the Righteous Judge of all the World shall make you reap the Fruit thereof one day, and who knoweth how soon.

‘In the mean time our care shall be upon all occasions, to make it appear clearly to all the World, how far it hath always bin (and by the Grace of God ever shall be) from our Intention first or last, to offer the least Act of Hostility to our Neighbour Kingdom, excepting so far as we shall be necessitate in our own Defence. And though (as God forbid) we should be forced thereunto, yet shall we remain unwilling to conceive things of that kind to flow from the Body of that Kingdom, with whom we intend no National Quarrel, neither mind to wrangle with them, except in the case of Invasion from them, but rather that this Stir hath bin contrived and set forward by some ill-affected Persons to both Kingdoms; with whom only our question is, and to whom alone we may justly intend according to their desert, as Men who are set to engage both Kingdoms in so bloody a War for their own base ends. And although a Party raised from among our selves, that are fomented and maintained from abroad, whence we find the Sinews of that Body within our selves to be derived and maintained which might justly stir us; yet the vanity and weakness of our Intestine Adversaries, even in this case of Offence, is so far from making us take Fire, without manifest Hostility offered, or ingaging us in any violent course that may interrupt the Brotherly Love and Concord of these two Kingdoms, or blemish our holy Profession in the least degree, as we are confident no malicious misreports of our common Adversaries, will induce our dear Brethren to quarrel with us for seeking to enjoy our Religion in purity, and our Laws and Liberties, according to the Fundamental Constitutions of our Church and State, when we are so well affected to them, as we are truly sensible of their grievous Burdens, and intolerable Sufferings from the Tyranny of their Hierarchy, and the fearful Bondage they undergo from the wicked Counsel of that Clergy suggested from *Rome*, and producing so dangerous Innovations both in Religion and Policy.

‘The sincere manifestation of our real Intentions We find our selves obliged to publish, for satisfying all good Subjects in our Neighbour Nation, being confident they are also desirous to be confirmed in their good opinion of us, and so to be armed against all Slanders and Calumnies of those that endeavour the final overthrow, and utter extermination of the Kingdom of *Christ Jesus* from this whole Island, whereof we pray God to avert the Danger, and grant us Peace and Purity, which is the height of our desire; for procuring whereof we shall imploy no other Weapons (except we be enforced) but Fasting and Prayer to God Almighty, and humble Supplications to our Gracious Sovereign.

Revised according to the Ordinance of the General Assembly,
by Mr. *Archibald Johnson*, Clerk there. At *Edinburgh* the
14th of *February* 1638.

February

February 14.

14 Caroli.



Star-Chamber.

The Bishop of *Lincoln*, together with *Lambert Osbaldston* Schoolmaster of the Grammar School at *Westminster*, was charged by Information in this Court of *Star-Chamber*, to have plotted together to divulge false News and Lies, to breed a disturbance in the State, and difference between two great Persons, and Peers of the Realm, viz. the late Lord Treasurer *Weston*, and the present Arch-Bishop of *Canterbury*. The Charge was grounded upon these following Passages written by Mr. *Osbaldston* to the Bishop of *Lincoln*.

My dear Lord,

I Find for certain, which I report sub sigillo, that the great Leviathan, and the little Urchin, are a great storm in Christmas-weather, and are at a very great distance one with another, insomuch that your Lordship hath bin inquired of more than once, if you were come, and when you will? And the great Man was heard to justify the words which you were questioned for, namely, That you had as good a right to the Deanery of *Westminster*, as the King to his Crown. And he was heard to say, That they were no more than he himself would say. The jealousie grows great and sharp between the Leviathan, and the little meddling Hocus-Pocus; and if it increase, there is hopes your Lordship will injoy the Blessing of the King's Grace. Your Lordship will hear, that the Lord's Grace of *Canterbury* is come to lodge in Court, so is the Lord Treasurer; Your Lordship, I hope, will pick out my meaning.

Westminster-Colledge, Jan. 9. 1633.

In another Letter.

My dear Lord, I cannot be quiet but I must write to your Lordship. The Sport is grown Tragical, any thing would be given for a sound and thorough Charge to push at and confound the little Urchin. The Spaniards and the Hollanders are both approvedly and firmly joined to effect the same, if your Lordship lend your Assistance, which I am bound to implore and require. Let them in the mean time scratch one another to the Bones. I use freedom of Heart, it is something of revenge that a brave Soul (as your Lordship is) hath some hopes of support in the midst of a Flood of Destruction.

Westminster-School, Jan. 30. 1633.

Likewise there was produced the Bishop's Letter of the second of February, to a Friend, to this purpose.

Mr. *Osbaldston* reported to me by Letters, That it was desired that I should contribute my endeavours to be useful to the Lord-Treasurer against the little great Man, and assured me that they were mortal Enemies. But for my part I refuse to meddle with any such thing; yet I pray you learn whether it be so or no, least some have gulled Mr. *Osbaldston* in his three last Letters. If the Lord Treasurer would be served by me, he must free me from the

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It was answered in the behalf of Mr. *Osbaldston*, That what was done by him, was done in private Letters, sealed to an honourable Friend. And it was confessed to be Error in him to use such familiarity in some Passages therein expressed. That he doth deny, That by the Appellations therein mentioned, he did mean the Arch-Bishop's Grace, or the Lord-Treasurer. But he meant thereby one *Spicer*, which took upon him to be a Doctor and was none; that he had divers times used, between jest and earnest, to call him *little Urchin*, *Vermin*, *little Hocus Pocus in the Velvet Jerkin*, and that there were some differences between him and the Bishop of *Lincoln*; and by *Leviathan*, he meant, Chief Justice *Richardson*, who had formerly committed *Spicer* (in *Westminster-Hall*); and he confessed he did merri-ly use that Name, the Person being apt to take a Jest in good part.

On the Bishop of *Lincoln's* part it was offered, That if any such Letters were sent by Mr. *Osbaldston*, yet he denied the receipt of them; and for the interpretation of those Appellations, he conceived the Writer was the best Interpreter; that he had many times heard Mr. *Osbaldston* call *Spicer* by the Name of *Hocus Pocus*, and he used to call *Richardson* by the name of *Leviathan*, and denieth the publishing of any such Letters, or so much as the speaking of any such at his Table.

The Attorney General urged, That the Interpretation given by the Defendants would not serve their turn. That those Letters of Mr. *Osbaldston* were found in a Box in the Bishop's House at *Bugden*; and when the Bishop heard they were found, he said, *Osbaldston* was undone. That the Bishop's Secretary *Walker*, and the Clerk of his Kitchen had heard their Master discourse of the subject Matter of these Letters, and that these Names of Appellation were frequent, between the Bishop and *Osbaldston*, and that by them was meant the Arch-Bishop and the Treasurer.

But it was further offered, in the behalf of Mr. *Osbaldston*, That the Interpretation made by others, should not be the ruin and destruction of the Defendants. That the Bishop's said Secretary and Clerk of his Kitchen (Witnesses against him) were lately censured in this Court for tampering with Witnesses, and were Persons expecting the Mercy of the Court; and Witnesses were heard on the behalf of *Osbaldston*, that he frequently called Dr. *Spicer* the *little Hocus Pocus*, and the *little Urchin*; and the Reason was, because *Spicer* had made many promises to give a Library worth 40 *l.* to the School at *Westminster*, but failed in the performance. And it was further proved, that he frequently called the Lord Chief Justice *Richardson*, *Leviathan*, who had committed Dr. *Spicer* in *Westminster-Hall*.

And in the defence of the Bishop of *Lincoln* it was further urged, That his said Secretary, *Walter Walker*, did frequently receive, and had commission to open his Letters in his absence; and what Letters he received he could not tell; and if those Letters were found at his House, they were laid up and concealed by his Secretary.

And further the Bishop petitions the Court, informing them how unable he was to make his defence, being his Majesty's close Prisoner in the *Tower*. After which Mr. Attorney General replied.

Sir

Sir John Banks his Reply about the Censure of my Lord Bishop of Lincoln, and Mr. Osbaldston, the 14th of February, in the Star-Chamber, 1638.

Interlocutory Passages.

‘ MY Lords, The Defendents Counfel in their defence, does except against the Charge of the Information, and they laboured much to tie the Matters charged in the Information to the very day of the Month, seeking thereby to escape the Charge, contrary to their Judgments and the common course of Justice.

‘ Also they made question where those Letters should be found: but if they will, they may know that they were found at my Lord Bishop of *Lincoln's* House at *Bugden*, as is manifest by their own Witnesses Interrogatories. 1. & 71.

‘ In the answer to which Interrogatories, three Witnesses do all say, That they heard they were found in a Band-box in my Lord of *Lincoln's* Wardrobe.

Mr. Recorder.

‘ My Lords, We have examined four Witnesses, which do all depose, That there were no Letters found in the Band-Box, and that his Lordship did never leave any Letters to be kept there.

Mr. Herbert.

‘ It appears by their own Witnesses, that there were such Letters found; but this is not to the purpose where they were found, but now they are found, the hainousness of them is the point in hand.

Lord Keeper.

‘ It may be that some of the Lords may find some things in the Depositions that may serve one way or other, therefore I think it good they should be read; but for my own part, I am satisfied in my judgment.

Mr. Attorney General further proceeded, saying;

‘ My Lords, the Defendents Counfel have made two Defences, one for Mr. *Osbaldston*, and the other for the Bishop of *Lincoln*.

‘ The Counfel for Mr. *Osbaldston* except against the Witnesses that prove the interpretation of the Letters, and would have Mr. *Osbaldston* to expound his own meaning, and if this should be allowed, every Libeller would thereby escape the Censure of the Court.

‘ First, They except against *Cadwallader Powel*, because he was before sentenced in the *Star-chamber*: But, my Lords, his Censure in the *Star-chamber* was not for any matter of Perjury, or Crime that should take away his Testimony; and the same thing for which he was sentenced, was my Lord Bishop himself Sentenced at the very same time.

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‘ Secondly, The second Exception was, that Mr. *Powel* and Mr. *Walker* were made Defendants in this Court to take away their Testimony in this Cause, and the reason why they were not proceeded against (said the King’s Attorney) was, my Lords, because my Lord Bishop of *Lincoln* would not perfect his Examination, by which we should have the better proceeded against them, and when my Lord Bishop hath perfected his Examination, they shall be proceeded against.

‘ Again, They except and say, that *Walker*, being Secretary to my Lord Bishop of *Lincoln*, he ought not to be Witness against my Lord of *Lincoln*.

‘ My Lords, when a Secretary is call’d and examined upon Oath he ought to discover the truth of what he is examin’d upon, and not to perjure himself.

‘ Again, they say, that there are no exprefs words in the Letters, whereby it doth certainly appear, that these words were not meant of my Lords Grace of *Canterbury*.

‘ My Lords, this sticks at all Causes of Justice: for if they shall be suffered to interpret their own words, by this means all Libellers would escape punishment.

‘ The third part of the Defence is this: That Mr. *Osbaldston* should call Doctor *Spicer*, *Vermin*, *Hocus Pocus*, *Urchin*, and the like: therefore say they, those terms in these Letters are not to be applied to the Archbishop of *Canterbury*, but to Dr. *Spicer*. This is no exclusion, for I shall shew that those words must needs be intended and spoken against the Arch-Bishop of *Canterbury*, and not of Dr. *Spicer*.

‘ In the Letter of the 9th of *Jan.* the words cannot be applied to be spoken of so mean a Man as Dr. *Spicer*: and so likewise in the Letter of the 30th of *Jan.* wherein he desires, that it should be kept secret: and if these words had been spoken of Dr. *Spicer*, they needed not be kept so secret. For *Hocus Pocus* and *Vermin* being spoken of Dr. *Spicer*, were published in *Westminster Hall*, and other places thereabouts, and therefore needed no secrecie.

‘ And that by the great *Leviathan*, it should be understood to be meant of the Lord *Richardson* there is no colour for it, my Lords.

‘ As for *Osbaldston*, he hath long been a turbulent Medler, and a false Intelligencer of the Affairs of State; I may say he is *Hocus Pocus*, and a Jugler in the Affairs of State; and yet I am sorry that I shall charge him with that which is worse than the Charge laid against him in the Information, for he is guilty of gross and wilful Perjury, for he hath denied upon Oath that which was plainly proved against him.

‘ Another Argument is, This *Osbaldston* is now run away, which in our senses doth shew a guiltiness of the Offence. 25 H. 5. One being indicted for Felony, if he runs away, he then forfeits his Goods.

‘ As for my Lord Bishop of *Lincoln*, he stands upon three things.

‘ First, That he received not the Letters.

‘ Secondly, That he did not publish them.

‘ Thirdly, That he did not entertain them.

‘ For the first, It is proved by Witnesses, That two days after *Twelve-tide* he gave order that his Letters should be opened that concerned his Law Suits, so that thereby he might colour the Matter, that they might not come into his own Hands. Again, he doth not say, That he did not receive the Letter of the 9th of *January*, besides

‘ his

his own Letter of the second of *January*, makes mention of three Letters which he received from Mr. *Osboldston*: In one of which he should contribute Money to the use of the Lord Treasurer for the ruin of the *little great Man*: So that it is confessed by his own Writings that he did receive them. And the Letter of the 30th of *January* was sent by a special Messenger to *Lincoln* therefore it is most probable that he received it, and your Lordships have heard *Cadwalader Powel* say, That my Lord of *Lincoln* demanding of him, Whether any of *Osboldston's* Letters were found? And he answering that they were. Then said the Bishop, *Osboldston* is undone: So that I conceive your Lordships will not think, but that his Lordship received the Letters.

But it is objected, That this is no Offence; For, say they, it's no Offence to receive Libellous Letters, and to keep them private. And as for my Lord of *Lincoln*, he did never publish any of them; and there is difference betwixt *Osboldston's* Case, and my Lord Bishop of *Lincoln's*, for they were only sent to my Lord of *Lincoln*, but he did never contrive nor publish any of them.

It is evident that he did publish these, for they were spoken of by *Powel* and *Walker*, and the Women did talk of them in the Market.

But they say, That some of his Attendants never heard him publish any such Speeches at his own Table.

It is like he did not make it his Table-Talk: But, my Lords, under favour, my Lord of *Lincoln* hath bin too forward to entertain and publish libellous Letters.

If any receive libellous Letters, the receiving is not a publishing of them, as it is in 9 *Report. fol. 59.*

In the 5th *Report*, there is difference betwixt Words and Letters, which concern a private Man and a publick Officer.

If they do concern a private Man, it is no offence in him that conceals them: but if they concern a publick Officer, he that doth conceal them, is guilty, and shall be punished for a Libeller.

And I conceive my Lord of *Lincoln* to be guilty of Perjury in this Cause; and, my Lord, that Perjuries are punishable in this Court, (though they are not charged in the Information) doth appear, *Hill. 2. Eliz. & Hill. 4. Eliz.*

My Lords, I do wish that this Age that is so much infected with devising and divulging scandalous Letters and Words, that some exemplary Example might be made, that we might hear no more of such scandalous Matters.

My Lords, before the Conquest they had very strict Laws against Libellers, (as to have their Tongues slit); And in the time of *Ed. 1.* and *Ed. 2.* there were special Commissioners appointed to enquire after Libellers, as in the close *Roll. Parliament*, and so I humbly leave them to your Lordships.

The Court proceeding to Sentence, declared in general, That they had received satisfaction that Mr. *Osboldston* was the Contriver, Writer, and Publisher of those odious Appellations of those two great Persons. That his Defence was ridiculous, and that his End was the ruin of the Arch-Bishop of *Canterbury*.

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As for the Bishop of *Lincoln*, they said, He was a Person of Quality, Parts, and Abilities, and one that once sat as Judge in this Court: That he shewed himself very indiscreet in concealing those Letters, and had thereby made himself guilty of a high Crime.

But for further satisfaction, take these Speeches following made in Court at the said Censure.

Sir John Finch, Lord Chief Justice of the Common Pleas, spake first, the Lord Cottington being absent.

My Lords,

There are two Defendants, so there are two Charges in the Information against them.

First, they are charged with giving *Nick-names* unto two Honorable Persons of this Realm.

Secondly, They are charged to *Plot*, and contrive to work an utter ruin and overthrow to my Lord Arch-Bishop of *Canterbury*.

And in those Charges, I shall observe several steps and degrees,

First, An Endeavour and Agreement between *Osboldston* and my Lord Bishop of *Lincoln*, to reproach and scandalize these two Noble Persons.

Secondly, A publishing and divulging the same.

In the second Charge I observe these Steps.

First a false Rumour raised by them.

Secondly, A publishing of the same.

Thirdly, An endeavour to work the ruin of the Lord Arch-Bishop of *Canterbury*, by contributing Charges to effect the same.

And how far *Osboldston* and the Bishop of *Lincoln* are guilty, I appeal to your Lordships. I shall now shew the extent of the Information, the Charge being laid to be in or about the 10th of *February*, *M. 9 Car.* Which Charge doth comprehend all libellous Letters, either before or since *9 Car.*

But it's true, If in the Letters will not appear that sense which is contained in the Charge, then they shall not be within the Charge of the Information, and therefore the Information admits of as much favour to the Defendants as may be: For this Court doth rather desire to find Men Innocent than Guilty.

I shall now come to the Particulars, and shall herein observe the course of the Defendants Counsel, who have distinguished my Lord of *Lincoln's* Case from *Osboldston's*, and so shall put a difference between them: For though *Osboldston* be guilty, yet it's possible that my Lord of *Lincoln* may not be guilty.

And as for *Osboldston*, I hold him as clearly guilty of the Charges in the Information, as any have bin sentenced in this Court.

For first, *Osboldston* was the Contriver and Publisher of those scandalous Letters; and I think there is no doubt at all, but that they were meant of the late Lord Treasurer, and the now Lord Bishop of *Canterbury*.

Secondly, Your Lordships may observe, what interpretation the Lord Bishop of *Lincoln* would make of them: How that my Lord of *Lincoln* himself did conceive that he meant the Arch-Bishop of *Canterbury*.

The

‘The third is by Witnesses.

‘First, *Walker* said, That he saw divers Letters wherein *Osbaldeston* explained his meaning, That he meant my Lord Treasurer, and my Lord’s Grace of *Canterbury*.

‘Again he saith, He saw some Letters wherein *Osbaldeston* used by-words, which my Lord of *Lincoln* did not understand until *Osbaldeston* had explained them.

‘Again he saith, His Lordship did explain many of these dark Words that *Osbaldeston* wrote unto him, shewing that he meant my Lord’s Grace of *Canterbury*.

‘Again he saith, That *Osbaldeston* spoke base words of the Arch-Bishop.

‘And these be his Reasons why he conceives, that by the Words in the Letters he means the Arch-Bishop of *Canterbury*; which I conceive be very good and sufficient Reasons.

‘The second Witness is *Cadwallader Powel*, who saith, He used these words in a Letter, *The little Vermin, the false Mediator, the Hocus Pocus*. And the Bishop of *Lincoln* being in the Tower, demanded of *Powel*, Whether any of Mr. *Osbaldeston*’s Letters were found? who answered, That they were found; Then, said the Bishop, *Osbaldeston* is undone.

‘Thus I have thought good to make a difference betwixt my Lord of *Lincoln* and Mr. *Osbaldeston*; for it is confessed by my Lord of *Lincoln*, that by one of those is meant my Lord Treasurer; but that shall not convict Mr. *Osbaldeston*, but it is plain by his own words what he meant. And that by those words should be meant Dr. *Spicer*, I hold it so ridiculous a Defence, that I think he could not have deceived his School-Boys with it.

‘And that by *Leviathan* should be meant my Lord *Richardson*, there is no colour for that; for though Dr. *Spicer* were confounded, what would the King or State suffer by his ruin or confusion? so that certainly it is meant of the Arch-Bishop of *Canterbury*.

‘For Mr. *Osbaldeston*’s going away, it is not judicially known unto me, and therefore leave it to your Lordships.

‘And as for the second Charge, That he did Plot and Contrive for the ruin of the Lord Arch-Bishop of *Canterbury*, I hold that he is guilty, and that he did stir my Lord of *Lincoln* to contribute Money for that purpose.

‘For my Lord of *Lincoln*, I shall only say this, That the Letter of the 9th of *January* is such a turbulent and scandalous Libel, that a Man of Place and Quality should not give any way thereunto; but that he should receive it, entertain it, and publish it, this shews that he had long a rancor and hatred towards my Lord Arch-Bishop.

‘And for the Nick-names, I shall find my Lord of *Lincoln* guilty as far forth as Mr. *Osbaldeston*, for he did entertain these Letters, and did publish them, and it was an Agreement and confederacy so to do.

‘By way of Defence, my Lord Bp of *Lincoln*’s Counsel did allege;

‘First, That there was an Agreement between *Osbaldeston* and my Lord of *Lincoln*. Again, they said, That there was no certain Appellation of my Lord Arch-Bishop of *Canterbury*.

‘Secondly, There was proof that my Lord of *Lincoln* did not speak any such Words at his Table.

‘Thirdly, They endeavoured to prove, That my Lord of *Lincoln* never

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‘ never wrote any Letters containing any libellous Matter; when as there was a Letter under his own Hand, which he would not confess, although he was brought like a Bear to the Stake, and three times examined about it.

‘ Again they said, That he did not receive them, and yet he wrote an answer to them.

‘ Again, Admit he did receive them, yet he did not publish them, but only delivered them to Mr. *Walker* his Secretary.

‘ Mr. *Attorney* well remembred the Law, That if a libellous Letter concerning a private Person, then he may conceal it; but if it concern a publick Officer, then the concealing of it makes him guilty thereof: And that the Letters were published is most certain, for they were openly spoken of by Women in the Market.

‘ Another thing of Mr. *Recorder*’s was this; That if my Lord Bishop of *Lincoln* did understand *Osbaldeston*’s meaning, yet he did not understand that he meant my Lord *Treasurer*, and my Lord’s Grace of *Canterbury*.

‘ Then, I say, He hath scandalized my Lord *Treasurer*, and my Lord Arch-Bishop of *Canterbury*; for by his own Writing he saith, That it was meant of these Persons.

‘ The next is, the charge of a *Plot* laid for the ruin of my Lord Arch-Bishop of *Canterbury*, but I will not condemn my Lord Bishop of *Lincoln* for that.

‘ The next Defence of Mr. *Recorder* was from this, That Mr. *Osbaldeston* wrote to the Bishop of *Lincoln*, saying, *I hope you will pick out the meaning, &c.* so that there was no Confederacy and Agreement between them.

‘ First, I say, He received the Letters, and published them.

‘ Secondly, He was so far from nipping these Scandals in the Buds, that he enquired further after them.

‘ Thirdly, That he was ready and willing to contribute Mony towards the ruin of my Lord Arch-Bishop of *Canterbury*.

‘ I am sorry that a Man of his Rank and Condition, should make himself Companion with a School-master.

‘ And as for the Aspersion which they cast upon Mr. *Walker*, to take away his Testimony, I see no just cause thereof.

‘ For they said, Either his Deposition is impossible and beyond his knowledge, or else that his Reasons that moved him thereunto, are insufficient. But for my part I know not how a better Reason can be given.

‘ Another Objection against *Walker* is this, That it was long before these Letters were brought forth; and that these are not all, but there should be a third Letter.

‘ I say, It is a wonder that so many were brought forth now. But that they had bin lost, or that my Lord of *Lincoln* had burnt them: for had I a Friend that I professed so much kindness to, as he did to *Osbaldeston*, I should be very sorry that he should suffer for his Letters.

‘ For the Testimony of *Cadwallader Powel*, I hold his Testimony as fit to be taken as my Lord Bishop of *Lincoln*.

‘ And for the Charge of the Defendants Counsel, for the subtil prosecution by the Solicitor *Kilvert*, I shall say little, I know him to be of a good Carriage in other Busineses, therefore if any fault be, I shall only desire that it may be amended for the time to come. I hold

hold that these Witnesses stand upright; and as for the other Witnesses, I submit unto your Lordships, for in Sentence I must consider the nature of the Cause, and the Persons.

First, I shall not acquit my Lord Bishop of *Lincoln*, nor condemn him so much as *Osboldston*.

I must consider the Persons offending, and the Persons against whom they have offended.

For the Persons offended, the first is the Lord Treasurer of *England*, one of his Majesty's Privy-Council.

And the second is the Metropolitan of *England*, who hath ever carried himself with great trust and fidelity towards his Majesty and the Publik Good.

And I verily think, that none can accuse him of the least corruption. In a Court where most Causes of the Clergy are tried, I did never receive any private Message from his Lordship in the behalf of any Clergy Man, which is a thing to be much observed in him.

For Mr. *Osboldston*, he hath bin a Parson, a Prebend, and a School-master. My Lords, I will not suffer him, he is so turbulent a Person, and scandalous Libeller, to teach and instruct others. I would have him therefore deprived of all his Spiritual Dignities and Promotions, that he never have any place in the Church; neither hold I it fit that he should teach Scholars, (should I do him justice, I should adjudge him some severe corporal Punishment): I would have him deprived in the High-Commission Court, and then to be set on the Pillory in this *Palace-Yard*. And that he may be an Example to his Boys, I would have him also to stand in the Pillory in the *Deans-Yard*, and one Ear to be nailed in the *Palace*, and the other Ear to be nailed in the *Deans-Yard*.

I do fine him *five thousand pounds*, and Imprisonment during the King's Pleasure.

And I do fine my Lord Bishop of *Lincoln* *five thousand pounds*.

And I give to my Lord Arch-Bishop of *Canterbury*, *five thousand pounds* apiece for Damages.

My Lord Chief Justice Bramston's Speech.

My Lords,

THERE are two Defendants, and they have made two Defences. I find my Lord Bishop of *Lincoln* to be guilty, though not so full, and in so high a nature as Mr. *Osboldston*.

They are charged to Plot and Confederate together, to scandalize two Honourable Persons, and to raise Discord in the State, and to seek the ruin and overthrow of my Lord Arch-Bishop of *Canterbury*.

Osboldston wrote a Letter of the 9th of *January*, and other Letters, which my Lord Bishop of *Lincoln* is charged with to receive and publish.

That *Osboldston* is guilty of every part of the Charge, I shall not need to make any question; neither shall I much stand upon the validity of the Witnesses, for I see nothing but that he is guilty of all the Charge.

I will begin with the first Letter of the 9th of *January*, in which he would have two other Persons meant there, and not my Lord Treasurer,

An. 1638.

'Treasurer, and my Lord's Grace of *Canterbury*; but the one to be meant my Lord *Richardson*, and the other Doctor *Spicer*.

'Now what comparison was there between those two Persons?

'The one was Lord Chief Justice, and as for the other, every one knows what he is; so that it cannot be meant of these two Persons, for there is no comparison between them.

'And for these words, the *little meddling Hocus Pocus works his own confusion*, &c. How would this be meant of Dr. *Spicer*? For how did Dr. *Spicer* work his own Confusion? And who would give so much to confound Dr. *Spicer*? He is no such eminent Person, that any should give so much to confound him. So that this Letter is very clear against *Osbaldston*.

'And it shews a petulant Spirit, and an inveterate hatred and malice, that he did long bear against my Lord of *Canterbury*, without any reason or cause at all, for he doth not shew that he had ever received any wrong or injury from his Grace.

'I come now to the other Letter, wherein *Osbaldston* writ to the Bishop of *Lincoln* to contribute Charges to my Lord Treasurer, for *the ruin of the little great Man*; by which must needs be meant the Arch-Bishop of *Canterbury*: so that I shall not stand longer upon Mr. *Osbaldston*; for if there were no Witnesses against him, yet I find Matter enough in his own Letters to prove him guilty of the whole Charge, and therefore I sentence him with my Lord *Finch*.

'For my Lord of *Lincoln*, I cannot sentence him as a *Libeller*, for there must be either a contriving or a publishing to make a Man a *Libeller*, as Mr. *Recorder* well observed.

'But I find him guilty of this Charge, That he received the libellous Letters; and of this Charge, That he assented to contribute Money for the ruin of my Lord Arch-Bishop of *Canterbury*.

'But it is objected, That he concealed the Libel, and therefore he is not guilty.

'The concealing of it doth not clear my Lord Bishop of *Lincoln*.

'For (as Mr. *Attorney* well observed) there is a difference between a Letter that concerns a private Person, and a public Officer.

'If a libellous Letter concern a private Person, he that receives it may conceal it in his Pocket, or burn it; but if it concern a public Person, he ought to reveal it to some public Officer or Magistrate.

'But it is true, if he divulge it to any but to a Magistrate, he is a *Libeller*; and why should my Lord of *Lincoln* keep these Letters by him, but to the end to publish them, and to have them at all times in a readiness to publish upon every occasion?

'For his being degraded, I leave it to those of the Ecclesiastical Court, to whom it doth belong.

'And for the other part of his Sentence of the *Pillory*, I am very sorry and unwilling to give such a Sentence upon any Man of his Calling and Degree. But when I consider the Quality of the Person, and how much it doth aggravate the Offence, I cannot tell how to spare him: for these considerations that should mitigate, makes the Offence the greater, which makes me join with my Lord *Finch* in that part also.

'For my Lord of *Lincoln*, I do fine him *three thousand pounds*, and Imprisonment.

'And

‘ And seeing the Offence is against so Honourable a Person as my Lord’s Grace of *Canterbury*, and there is not the least cause of any aggrievance or wrong that he hath done to my Lord of *Lincoln*, therefore in Damage I join with my Lord *Finch*. 14 *Caroli.*

‘ Secretary *Windebanck*, and Secretary *Cook*, did both join with my Lord *Brampston* for the Bishop of *Lincoln*, and with my Lord *Finch* for Mr. *Osbaldfon*.

Mr. Comptroller his Speech.

My Lords,

‘ **F**OR *Osbaldfon*, considering his place, I cannot but condemn him very much, for by what hath bin alledged, I verily believe that he did mean my Lord *Treasurer*, and my Lord Arch-Bishop of *Canterbury*: And my Lord Bishop of *Lincoln*, and Mr. *Osbaldfon*, are both guilty of Crimes in a high nature; one would have thought that my Lord Bishop of *Lincoln*, being a Person of that Place and Quality, should not have run himself into such danger as to have meddled with such Matters; for had he not met with good Counsel, I conceive that he had plunged himself in as deep as *Osbaldfon* in these practices.

‘ And as for *Osbaldfon*’s Sentence, I agree with my Lord *Finch*.

‘ And for my Lord Bishop of *Lincoln*, I hold with my Lord *Brampstone*.

‘ As for my Lord of *Canterbury* his Carriage, it is well known to be upright, and therefore I leave it

The Lord Newburgh his Speech.

My Lords,

‘ **F**OR *Osbaldfon*, I find him guilty of every part of the Charge; for the other I cannot sentence so deep; for I think my Lord of *Lincoln* is not guilty of the Plotting and Confederating, for the scandalizing of those two honourable Person; I leave it to your Lordships Judgment, and lay all the Charge upon *Osbaldfon*.

The Earl of Dorset’s Speech at the Sentence of Mr. Osbaldfon.

‘ **A** *Ristotle* in his Politicks, admits not in the Government, of any School-master to the exercise of Civil Duties, School-masters commonly proving the Apes of Tyranny; and being used to imperiousness over Scholars, if you put a Sword of Justice into his Hand, you may easily guess how he will lay about him in the State and City.

‘ I know not with what spirit of Vanity this School-master was possessed, but we see the monstrous birth of it; if the Pedant had kept within his Rules, he might have bin taught not to have disturbed Government. Look upon this Pragmatical Person, and behold the Fact, and what were the Motives, what the Reasons to bring himself upon the Stage.

An. 1638.

‘ His ill thoughts exprest in Ink as black as his Crime; his Pen was steep’d in Vinegar and Gall. What was it that stain’d the Bishop of *Lincoln’s* Ear with the poison of ignominious Titles? It was the Pendant. Who was it, that as a Thief that had stolen another’s good name away, cries, Burn my Letters, on purpose to go in darkness of the night? It was a Parson. Who was it that endeavoured to stain the purity of my Lord Arch-Bishop’s Honour with foul aspersions of Titles, *little Grace, little Urchin, Vermin &c?* It was Mr. *Osbaldston*.

‘ Well, I will speak what I think, I fear none but God and the King, and I speak in truth, I am sure I shall offend neither of them. I have enquired of them who are learned in the Laws, who say, That the plainest Sense is to be taken. The Divines will tell you, That the easy Places shall explain the more obscure. And if any Man would examine those Letters, and with judicious comparing the Title of *little Grace* with the other, he will be forced to confess the sense of the other, or else be blind at noon-day.

‘ But as Truth may be cleared by strong and solid Reason, so it may be darkned and shadowed by the colours of probability of appearances.

‘ But, my Lords, I think the School-master alleges his Services to the Common-Wealth, and his being slighted for it; That he hath bin these many Years, and dedicated his Pains and Time for the good of the Flowers of the Kingdom, *Generosa debentur*. But I will consider him as a Man subject to his Passion, (which to take away, were to take away the Man himself): I will allow him his Infirmities, but observe a little his Envy, see his Merits and Deserts, which he hath so foully abused, with the height of insolency and bold access, to the very Secrets of Empire and Government, to the disgrace of those Men of which the Common-Wealth consists. I know not, (my Lords) the Fault of the Man may transport my Speech that I abuse your Patience; but I shall give my censure of him; I learn’d in the University, how that a Syllogism doth ever follow the worst part, *sequitur deteriorem ad partem*, I am sure his Letter doth: he might have found a better *medium* to make up a Syllogism of a Libel, for he hath concluded in the worst Body of all the Figures, *viz. in Bocardo*: So I must concur with my Lord *Finch* in censure.

‘ As for my Lord of *Lincoln*, linked in this Cause, I honour the Man for many Causes, in many Relations, but for his Secretary *Walker*, and the Clerk of his Kitchen, and the rest (where-ever the Letters were found); they have dealt like *Acteon’s* Hound, that turned against and devoured his Master; the false Secretary, the unjust Steward, and the unlawful Clerk of the Kitchen, who were fed at my Lord Bishop of *Lincoln’s* Table in his prosperity, and now in his adversity they fall upon their Master to devour him. I must say of him, he hath forgotten himself, and agree to the Censure which the Lord Chief Justice *Bramstone* hath given against him. He did not as *Peter* did, when he had denied his Master, go out and weep bitterly for his offence; but he justifies himself, and therefore he is fallen into the Lime-twigs of his Adversary.

The Earl of Arundel's Speech.

My Lords,

For *Osbaldston*, I find him guilty of every part of the Charge; and that he is not sentenced in a higher nature is, *causa de bona fortuna*, for had he bin suffered to have persisted in his course, he had surely fallen into a most dangerous Error.

And therefore I join in Sentence for him with my Lord *Finch*.

I am sorry for my Lord Bishop of *Lincoln*, he hath shewed himself very indiscreet, being a Person of Place and Quality, he now falls low in his Estate and Dignity; and these things will make his Spirit fall lower than his Body; and therefore I agree in all things with my Lord *Finch*.

Marquess Hamilton his Speech.

My Lords,

For *Osbaldston*, I find him guilty of the whole Charge. For my Lord Bishop of *Lincoln*, I cannot find him so deeply guilty as *Osbaldston*. But certainly my Lord's Grace of *Canterbury* hath bin exceedingly wronged. Therefore I give Damages with my Lord *Finch*.

And for *Osbaldston*, I sentence him with my Lord *Finch*.

And as for my Lord Bishop of *Lincoln*, I join with my Lord *Brampston*.

The Earl of Manchester, Lord Privy-Seal, his Speech.

My Lords,

For *Osbaldston*, if you take his Words, his Meaning, and the End, they will appear to be very heinous.

First, His Words, to bring contempt and disgrace upon my Lord Bishop of *Canterbury*.

Secondly, His Meaning is expressed in the words themselves, to be against two Honourable Persons.

Thirdly, And for the End, that was most dangerous and pernicious. It was to overthrow and work the confusion and ruin of my Lord's Grace of *Canterbury*.

Setting aside all the Witnesses, I will condemn my Lord Bishop of *Lincoln* out of his own Mouth, for he denies all.

First, He denies the receiving of the Letters.

Secondly, The entertaining of them.

Thirdly, The publishing of them.

Not as *Peter* did when he had denied his Master, to go out and weep bitterly for his Offence, but to justify himself: Yet how can my Lord of *Lincoln* deny the Letter that he wrote with his own hand, and yet he will not confess it to be his own Letter.

And after he was Prisoner in the Tower, he called to Mr. *Cadwalader Powel*, and demanded if any of Mr. *Osbaldston's* Letters were found? Who answered, That they were found. Then said the Bishop, *Osbaldston* is undone.

Secondly, He desired that they should be kept close and secret.

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Thirdly

An. 1638.

‘Thirdly, Though they were kept close, and only put into the Pocket, if they concern a publick Person, he is a Libeller.

‘For *Osboldston*, besides all the corporal Punishment, I hold fit that he should acknowledge his Offence in writing to my Lord’s Grace of *Canterbury*.

‘And as for the Bishop of *Lincoln*, I hold that he should also make an acknowledgmet in writing to the Arch-Bishop, for he is a Person of great Place and Quality. And my Lord of *Lincoln* is under Canonical Obedience to the Arch-Bishop by his Oath; and Disobedience is a breach of his Oath; therefore he should acknowledge his Offence under his own hand.

‘For my Lord’s Grace of *Canterbury*, he hath ever carried himself with much Gravity in his Place, and Piety towards God and the King, and the public Good; therefore I leave him in honour as I found him, and Sentence the Bishop of *Lincoln* with my Lord *Bramstone*; and *Osboldston* with my Lord *Finch*.

‘The Earl of *Holland* joined in Sentence with my Lord *Finch* for *Osboldston*, and with my Lord *Bramstone* for the Bishop of *Lincoln*.

The Lord Keeper his Speech.

My Lords,

‘IF I be not mistaken, it is mispending of time in opening the Cause, therefore I shall use as much brevity as may be.

‘And, first, I shall begin with the first Letter, and think it fit that this Letter, and all the Copies thereof, should be suppressed.

‘Yet I may make this use of it, That *Osboldston* and my Lord Bishop had a long time continued intercourse of writing scandalous Letters, and false News.

‘Again, I make this use of it, That my Lord of *Lincoln* having received such a Letter so scandalous against the King and State, did conceal the same.

‘My Lords, For the Letter of the 9th of *January*, my Lord Bishop of *Lincoln* doth deny that he received it; and therefore I think that he conceived it to be a scandalous Letter, which made him to deny it.

‘Again, He kept the Letters by him, that he might have the words ready to tell unto every one at his Pleasure.

‘And as for the Letter of the 30th of *January*, he denieth to make a perfect answer to it.

‘It was the saying of one that was late Lord Chancellor, That he never liked a Cause, where there were divers Answers in it; neither can I like this, when my Lord Bishop of *Lincoln* hath been so often examined, and will not make a perfect Answer, for he hath thrice bin examined upon this Letter, which is a shrewd Argument unto me, that he knew well that there was scandalous Matter contained in it.

‘Next, my Lords, is the publishing of these libellous Letters, and I think it very fit that my Lord of *Lincoln* should be charged with the publishing of them. If they were in the Band-Box, then that was a publishing of them; and he delivered a Letter to his Secretary, which was a publishing thereof.

‘But it’s true, If a Man deliver a Letter to his Secretary, and command that he should keep it secret, I conceive that is not a publishing of it.

‘If

If there were no other proof but this, I should think my Lord Bishop of *Lincoln* and Mr. *Osboldston* to be guilty, not only of contriving, but also of publishing and divulging scandalous Libels against the Lord Arch-Bishop of *Canterbury*, and the State.

As for Witnesses, although there is no need, (for it is plain without Witnesses) yet there be divers Witnesses that prove it.

Now it remains that I should proceed to Censure.

It concerns the late Lord *Treasurer*, one of his Majesty's Privy-Council, and my Lord Arch-Bishop of *Canterbury*, two Honourable Persons: And my Lord Arch-Bishop had not only bin a Friend to the Bishop of *Lincoln*, but a faithful Mediator for him to his Majesty, and was always very faithful in returning his Majesty's Answer unto him; and yet notwithstanding all this, my Lord of *Lincoln* hath done many heinous Offences against the said Arch-Bishop of *Canterbury*.

For *Osboldston* his Censure, I agree with my Lord *Finch*, and do add thereunto, confession of the Offence, and Submission.

And for my Lord Bishop of *Lincoln*, I agree with my Lord *Bramstone*.

The Sentence of the Court was,

THAT Mr. *Osboldston* should be fined five thousand pounds to the King, and pay five thousand pounds Damages to the Arch-Bishop; be deprived of all Spiritual Dignities and Promotions; imprisoned during the King's Pleasure, and make Submission.

That the Bishop of *Lincoln* be fined in five thousand pounds to the King, and three thousand pounds to the Arch-Bishop; to be imprisoned during the King's Pleasure, and to make Submission.

And *Osboldston* was sentenced to stand in the Pillory in the *Deans-Yard*, before his own School, and his Ears to be only nailed to the Pillory.

It so hapned, though the report was that *Osboldston* was run away, that he was in Court standing in the Croud at the Censure; and when he heard the said Censure of some of the Lords, he guessed the Cause would go against him, and knowing the rule of the Court, That if the Warden should espie him in Court, he might command his Tipstaff to apprehend him; as soon as the major part of the Court had past Censure upon him, although the Lord *Keeper* had not then given his Sense; therefore he got out of Court, went to his Study at the School, burnt some Papers, and writ on a Paper, which he left on his Desk, That if the Arch-Bishop inquire after me, tell him, I am gone beyond *Canterbury*. Whereupon Messengers were sent to the Port-Towns to apprehend him; but he lay hid in a private House in *Drury-Lane*, till the Parliament met in November 1640.

Carolus

An. 1638.

Carolus Rex.

Right trusty and well-beloved Cousins and Counsellors, We greet you well.

A Copy of the
King's Letter
to the Nobility,
&c.

THE late Disorders in Our Realm of Scotland, begun upon pretence of Religion, but have bin raised by Factions Spirits, and fomented by some few ill, treacherous-affected Persons, whose aim hath bin, by troubling the Peace of that Our Kingdom, to work their own particular Ends, and indeed to shake off all Monarchical Government; although We often assure them, that We resolve to maintain constantly their Religion established by the Laws of that Kingdom; is now grown to so high and dangerous Consequence, that under their sinister Pretences, they have so far seduced many of Our People there, that great and considerable Forces are raised and assembled in such sort, as We have reason to take into Our consideration, the Defence and Safety of this Our Kingdom of England: And therefore upon due and mature consultation with the Lords of our Privy-Council, We have resolved to repair, in Our Roial Person, to the Northern Parts of this Our Kingdom, there, by the help of Almighty God, and the assistance of Our loving Subjects, to make Resistance against any Invasion that may happen. And to the end that this with expedition may be effected as We desire, to the Glory of God, and the Safety of Us and this our Kingdom of England, We have directed, that a considerable Army, both of Horse and Foot, shall forthwith be levied out of all the Shires of this Our Kingdom, to attend Us in this Action; wherein We nothing doubt, but that the Affection, Courage, and Fidelity of Our People will appear. We in the mean time have thought fit to give you notice of this Our Resolution, and of the State of these Affairs: And withal hereby do require you to attend Our Roial Person and Standard at Our City of York, the first day of April next ensuing, with such Equipage, and such Forces, as your Birth, Honour, and Interest in the Commonalty doth oblige you to, &c. And We do, and have reason to expect from you a performance hereof; and these Our Letters shall be as sufficient and effectual a Warrant and Discharge unto you, to put your self, and such as shall attend you, into Arms and Order as aforesaid, as if you were authorized thereunto under Our Great Seal of England. And We do hereby require you to certify under your Hands, within fifteen Days after the receipt hereof, what Assistance We shall expect from you herein, and to direct the same to one of Our Principal Secretaries of State.

Given under Our Signet, at Our Palace of Westminster, the 15th Day of February, in the 14th Year of Our Reign.

Whilst the King was gone towards the North, the Clergy went on briskly with their Contribution to the War against the Scots, as by a particular Account following will appear.

The

THE Contribution of the Clergy in the Diocess of				l.	s.	d.
Canterbury, as appears by Mr. Will. Cranmer's Account, An. 1639. amounted to				534	05	03
Of the Dean and Prebends of the Cathed. of Canterbury				300	00	00
Bangor Diocess				192	08	08
Bristol Diocess				714	11	08
Chichester Diocess				985	16	00
Ely Diocess				764	08	00
Glocester Diocess				566	07	05
Hereford Diocess				662	01	03
Lincoln Diocess in Bedford				315	19	06
In the Arch-Deaconry of St. Albans in Hertfordshire				72	12	04
In the Arch-Deaconry of Huntingdon				209	14	06
Norwich Diocess, in the Arch-Deaconry of Norwich and Norfolk				1094	16	08
In the Arch-Deaconry of Suffolk and Sudbury				921	19	09
Winchester Diocess				1305	05	08
Worcester Diocess				624	19	07
The Dean and Chapter of Windsor				200	00	00

What was contributed in other Diocesses, we want a perfect account thereof; but in all these forementioned, every particular Clergy-Man's Contribution is specified by Name; and the Names of those who refused, or were unable to contribute, were specially certified, and returned to the Arch-Bishop.

The Contribution of the Doctors of the Civil Law, at *Doctors-Commons*, as appears by several Notes under Sir John Lamb's own Hand, found among his Writings, amount to 671 l. 13 s. 4 d. paid in.

How ready such of the Clergy were, as inclined to contribute to this War, will evidently appear by this Letter of Dr. John Packington, (who wrote *Sunday no Sabbath*) to Sir John Lamb.

S I R,

ON Thursday and Friday last, the Clergie met at Bedford, before Mr. Commissary, Mr. Thorne, and my Self. We found them willing to contribute as much as was propounded. The poorest that gave any thing at all, gave no less than 3 s. 10 d. in the pound, without deducting of Tenths; the most gave after 4 s. some 5 s. some after 6 s. in the pound. Much of the Mony is paid in, and I suppose it will be all in Mr. Commissary's Hands by the 26th of this Month, the day appointed for the paiment. I doubt not but the Clergie of England will teach the Ministers of Scotland Duty and Obedience; and if their Laity will be taught the like by Ours, his Majesty I hope will have a Roial and Joiful Progres into Scotland; which God grant.

At this Meeting, I understand that Dr. Micklethwait is the Man in nomination for Sandy; he is my old Acquaintance, and very good Friend, whom I love with all my heart, for I take him to be a right Man for the Church; and if it might please God that he might be better accommodated nearer his own Means, I think we should mutually rejoice.

No

did not happen
till now

There's
the test

An. 1638.

No Parsonage of England could fit me better than Sandy; it is of good value, it would draw me out of that Corner, where my stirring for Church-Rights makes me less acceptable with some great Hands.

As the Clergy of the Church of England did liberally contribute to assist his Majesty with a supply of Money against the Scots, so the Subjects of England, of the Romish Religion, were not wanting to follow that Example; nor the Queen in countenancing the same, as by the Papers following will appear.

The Queen's Letter for the leavying of Money against the Scots.

Heneritta Maria R.

WE have so good a belief in the Loyalty and Affection of his Majesty's Catholick Subjects, as we doubt not but upon this Occasion, that hath called his Majesty into the Northern Parts, for the Defence of his Honour and Dominions, they will express themselves so affected, as we have always represented them to his Majesty. So in this common consent which hath appeared in the Nobility, Judges, Gentry, and others, to forward his Majesty's Service by their Persons and States; we have made no difficulty to answer for the same correspondency in his Catholick Subjects, as Catholicks: Notwithstanding they all have already concurred to this his Majesty's Service, according to the Qualities whereof they are, when others of the same Quality were called upon: For we believe that it became us, who have bin so often interested in the Solicitation of their Benefits, to shew our selves now in the perswasion of their Grattitudes. Therefore having already, by his Majesty and by other means, recommended to them this earnest desire of Ours, to assist and serve his Majesty by some considerable sum of Money freely and chearfully presented: We have thought fit (to the end that this our desire may be the more publick, and the more authorized) hereby to give you Commission and Direction, to distribute Copies under your hand of this Testification thereof, unto those that have met in London by our Direction about this Business, and unto the severall Collectors of every County. And as we presume the sum they will raise, will not be unworthy our presenting to the King; so shall we be very sensible of it, as a particular respect to our selves, and will endeavour, in the most efficacious manner as we can, to improve the Merit of it, and to remove any apprehension of Prejudice, that any (who shall employ themselves towards the Success of this Business) may conceive by this, and be assured, That we will secure them from all such objected Inconveniencies. And we are very confident, that this our first Recommendation will be so complied withal, as may not only afford us particular satisfaction, but also facilitation towards their own Advantages.

At this juncture of time, when these Contributions were set on foot to raise Monies to supply the King against the Scots; there was delivered to the hands of the Author of these Collections, by one Mr. Audly, since deceased, a Copy of a Paper which he said he had from

from a *Romish* Recusant, averring it to be sent from the Pope to his Nuncio in *England*, which in regard it relates to the *Scotish* Affairs, (though we have no other Voucher for the same) yet we thought fit to communicate a Copy thereof to the Reader, which followeth in these words.

14 *Caroli.*

A Letter from the Pope to his *Nuncio* in *England*, at the beginning of the War with *Scotland*, but badly translated.

DU are to command the Catholics of *England* in general, That they suddenly desist from making such offers of Men towards this Northern Expedition as we hear they have done, little to the advantage of their Discretion: And likewise it is requisite, considering the penalty already imposed, that they be not too forward with Money, more than what Law and Duty enjoyns them to pay, without any Innovation at all, or view of making themselves rather weaker Pillars of the Kingdom than they were before.

Inform the Provincials of every Order, that it is expressly prohibited, no more Assemblies (of what nature soever) shall admit of the Laity to have either Voice or Session in it, being what will be urged for a Precedent, is but only an Usurpation.

Declare unto the best of the Peers and Gentlemen, by word of Mouth or Letter, That they ought not to express any adverseness, in case the High Court of Parliament be called; nor shew any discontent at the Acts which do not point-blank aim at Religion, being in general the most fundamental Law of that Kingdom.

Advise the Clergy to desist from that foolish, nay rather illiterate and childish custom of Distinction in the Protestant and Puritan Doctrine. And especially this Error is so much the greater, when they undertake to prove that Protestantism is a degree nearer the Catholic Faith than the other; For since both of them be without the verge of the Church, it's needless Hypocrisy to speak of it, yea, it begets more malice than its worth.

That the Provincials are herein required to give a general warning through all Orders, That no Religious Person ought to be seduced by any Noble-men, either Officers of the Crown, or the like, (who pretend to be Ecclesiastick) into a Premunire. For he that dares not follow the Truth as his Conscience directs him, is not worthy to be sought or followed by any of our Faith. But on the other side we give the like command, That whosoever is thought enclining to God in his heart, let no Man be so rash to boast and speak it abroad.

All busy Enquiries are forbidden, but especially into Arcanaes of State.

That none of the Church, whether Lay-Brother or Ecclesiastick, contribute so largely as they have done to the Society, but dispose their Charity, that every Order may partake alike.

An. 1638.

Concerning
the Pope's
Nuncio.

A Copy of the Letter sent by those assembled in London, where the Pope's Nuncio sat as Chief, to them of the Romish Religion in every Shire.

THe inclosed Advices and Motives being so ample, (as you will perceive by perusing them) it will not be needful that we enlarge our selves upon any Particulars concerning the conduct of the business which they direct the way in. This therefore serveth only to convey them to you, (as we are entreated by those that have met here, and have undertaken to do it) and desire you to repair immediately unto those Persons to whom they be directed, and to deliver the same unto them in the Name of all the Noble-men and Gentry (together with our selves) assembled here at London, by the Queen's Commandment, to set forward this Work. And we pray you assure them, in the most efficacious manner you can, (engaging all our Credits for trust thereof) That it is the Sense of us all, both Ecclesiastical and Lay Persons, that by the discharging of their and our Duties to God and the King; it mainly importeth the good of Catholicks to have their Business take good success. Therefore intreat them to deal actively, and efficaciously, and speedily, according to these Advices and Motives. We are so well perswaded of their Devotion to put forwards so pious a Work, that we doubt not but they will be as well satisfied in the needfulness of the thing, and be as ready to employ themselves in it, (receiving the Assurance thereof, and Persuasions thereunto, only from our hands) as if they came by all the most formal ways that can be imagined; which in a business of this nature cannot be expected. And although the Advices and Motives be directed only to Lay-Gentlemen; yet we desire you (and have answered for you) that you will employ your selves, and all those that depend on you, sincerely to solicit and dispose all their minds that you have relation unto, as powerfully as you can, to contribute cheerfully and bountifully upon this Occasion; which is the first that ever we laboured in of this kind, so we hope in God it will be the last, there being no probability of so pressing and urgent a necessity to occur any more.

Tours, &c.

Sir Kenelme Digby, and Mr. Mountague's Letter, concerning the Contribution against the Scots, by the King's Subjects of the Romish Religion.

April.

IT is sufficiently already known to every one the extraordinary Graces and Protections we owe the Queen's Majesty, to whose favourable Intercession we must ascribe the happy Moderation we live under; so as we doubt not but an occasion of the expression of our Gratuities will joyfully be embraced by every Body, which the present estate of his Majesty's Affairs doth now offer us. We have already, by our former Letters, endeavoured to prepare you to a cheerful Assistance of his Majesty, in his declared Journey to the Northern Parts, for securing of his Kingdom, and such other Purposes as his Roial Wisdom shall resolve of; that so you may really demonstrate your selves as good Subjects as God and Nature requires of you. Now her Majesty hath bin graciously pleased to recommend unto us the Expressions of our Duties and Zeal to his Majesty's Service

Service, by some considerable Gift from the Catholicks. And to remove all Scruples, (that even well-affected Persons may meet with) she undertakes to secure us, and all that shall employ themselves in this Business, from any inconvenience that may be suspected, by their or our forwardness and declaration in this kind; it will easily appear to every Body how much it imports us, in our sense of his Majesty's Desires, to press every Body to strain himself, even to his best Abilities, in this Proposition, since by it we shall certainly preserve her graciousness to us, and give good Characters of our Devotion to the King and State; of whose benignity we have all reason to give Testimonies, and to endeavour to produce Arguments for the prosecution and encrease of it.

Now for the best expedition of this Business, (which is the chief Circumstance that importeth in it) we have thought fit to recommend it to your nominations of such Persons as shall in your Opinions be agreed, for the ablest and best disposed in every several County, not only to solicit, but to collect such voluntary Contributions, as every Bodies Conscience and Duty shall proffer. And we shall desire you to give us an account of what acceptation it receives from Friends, which we cannot but expect very successful, and answerable to the forwardness we meet with here about London; for which we shall offer up our Prayer to God.

Wal. Mountague.

Ke. Digby.

We crave leave a little to digress in point of Time, and to insert something pertinent to what is before mentioned to be written by the Queen's Majesty, to the King's Subjects of the *Romish* Religion, to encourage them to contribute Mony for the Service of the King against the *Scots*; for that when the Parliament met, *Novemb. 3. 1640.* her Majesty understanding that the Parliament did take it ill for writing in that manner, and for that end mentioned in her Letter, did send a Message to the *House of Commons* by the *Comptroller*, which he delivered in these words.

‘ That her Majesty has bin ready to use her best endeavours for the removing of all misunderstanding between the King and Kingdom.

‘ That at the request of the Lords, who petitioned the King for a Parliament, her Majesty at that time writ effectually to the King, and sent a Gentleman expressly to perswade the King to the holding of a Parliament.

‘ That she hath since bin most willing to do all good Offices between the King and the People, which is not unknown to divers of the Lords, and so shall ever continue to do, as judging it the only way of happiness to the King, her Self and Kingdom.

‘ That all things be justly settled between the King and his People; and all Causes of misunderstanding taken away and removed.

‘ That her Majesty having taken into consideration, that one being sent to her from the Pope is distastful to the Kingdom, she is desirous to give satisfaction to the Parliament within convenient time, and will remove him out of the Kingdom.

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‘ That understanding likewise, that exception hath bin taken at the great resort to her Chappel at *Denmark-House*, she will be careful not to exceed that which is convenient and necessary for the exercise of her Religion.

‘ She further taketh notice, That the Parliament is not satisfied with the manner of raising Mony for the Assistance of the King in his Journey to the North, in the Year 1639, at her entreaty from the Catholicks; she says, That she was moved thereunto, meerly out of her dear and tender affection to the King, and the Example of other his Majesty’s Subjects, she seeing the like forwardness in others for the Assistance of the King.

‘ If any thing be illegal, she was ignorant of the Law, and was carried therein only out of a great desire to be assisting to the King in so pressing an Occasion; but promiseth to be more cautious hereafter, and not to do any thing but what may stand with the established Laws of the Kingdom.

‘ Her Majesty being desirous to employ her own Power to unite the King and People, desireth the Parliament to look forwards, and pass by such Mistakes and Errors of her Servants as they may be guilty of formerly; and this your respect she promiseth, shall be repaid with all good Offices she can do to the House, which you will find with real Effects as often as there shall be occasion.

The Names of the Collectors for gathering the Recusants Mony, to maintain a War against the Scots.

Bedfordshire.

M After Church, Sir Robert Charnock, Mr. Robert Hewet.

Barkshire.

Mr. Anthony Inglesfield, Mr. Tirrel.

Bucks.

Mr. Robert Dormer, Sir Edward Mansfield, Mr. Throgmorton, Master Bringhurst.

Cambridgeshire.

Mr. Henry Huddleston, Mr. Charles Paryes, Mr. Barker.

Cheshire.

Mr. Bidulph of Bidulph, Sir William Massey, Mr. William Stanley, Mr. James Pool.

Cornwal.

Mr. Victor, Mr. Burlacey, Mr. Trevelion.

Cumberland

Sir Francis Howard, Mr. Joseph Porter.

Derbyshire.

Sir Francis Willoughby, Mr. Avery of Hassop, Mr. Pool of Spinckill.

Devonshire.

Sir Edward Carey, Mr. Berry, Mr. Anthony Gifford, Dr. Chichester.

Dorsetshire.

Mr. George Penny the Elder, Mr. George Arundel, Mr. Web of Langford, Mr. Wells of Purbeck.

Durham.

Sir Ralph Conyers, Mr. George Collingwood, Mr. Edward Smith.

Essex.

Essex.

Mr. William Peters, Mr. Thomas Wright, Mr. Richard White.
Gloucestershire.

Sir John Winter, Mr. Wakeman, Mr. Benedict Hall, Mr. Atkinson.
Hertfordshire.

Mr. Price of Washingley, Sir Thomas Shirley, Mr. Thomas Cotton.
Herefordshire.

Mr. William Bodenham, Sir John Wigmore, Mr. William Moor of
Burrop, Mr. John Harp.

Hampshire.

Mr. John Arundel, Mr. George Penny the Younger, Mr. Will. Owen.
Kent.

Mr. Benjamin Wyborne, Mr. Clement Finch, Mr. Pettite.

Lancashire.

Mr. Bradshaw, Sir Cecil Crayford, Sir William Gerrard, Mr. Mo-
lineaux of the Wood, Mr. Townley of Townley, Anderton of Lostock.

Leicestershire.

Sir Francis Englefield, Mr. Golding.

Lincolnshire.

Mr. Anthony Mounson, Sir John Thimbleby, Mr. Robert Constable.

London and Middlesex.

Mr. Cape, Mr. Rox, Mr. Becket, Mr. Richard Bethem, Mr. Edward
Harp, Mr. Morgan, Mr. John Chapperley, Dr. Kirton.

Norfolk.

Mr. Eversard, Mr. Charles Walgrave, Sir Henry Beddingfield, Ma-
ster William Paston.

Northamptonshire.

Sir William Saunders, Mr. John Poulton.

Nottinghamshire.

Mr. Thomas Smith the Elder, Mr. Thomas Smith the Younger.

Northumberland.

Sir William Fenwick, Mr. Haggerston, Mr. Withrington, Sir Ed-
ward Ratcliff.

Oxfordshire.

Sir Richard Farmer of Kiddington, Mr. William Stone, Mr. Ralph
Sheldon.

Rutlandshire.

Mr. Nicholas Cripps, Mr. William Andrews, Mr. Alcock, Mr. James
Digby.

Shropshire.

Sir Basil Brook, Mr. Plowden, Mr. John Harrington.

Somersetshire.

Mr. Raine, Mr. John Ewins the Elder.

Staffordshire.

Mr. Brook of Lapley, Mr. Stamford of Perry-Hall, Mr. Philip
Draycot.

Surrey.

Mr. Edward Cotton, Sir Richard Weston.

Sussex.

Sir John Shelley, Sir John Carrol.

Suffolk.

Sir Francis Mannock, Sir Roger Martin, Sir Edward Sylyard, Master
Thomas Bedingfield of Bedingfield.

Warwick.

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Warwickshire.

Mr. Anthony Dormer, Mr. Thomas Morgan, Mr. William Shelden,
Mr. Richard Middlemore.

Wiltshire.

Mr. William Arundel, the Lord Baltimore, Mr. Edward Stilling.

Worcestershire.

Mr. William Abingdon, Mr. William Shelden.

Westmoreland.

Mr. Anthony Ducket, Mr. John Leyborne, Mr. Fleming.

Yorkshire.

East-Riding, The Lord Dunbar, Mr. Brigham, Mr. Langdail.

West-Riding, Baronet Vavasor, Baronet Gascoin, Mr. Thomas
Waterton, Mr. Philip Hungate.

North-Riding, Mr. Craythorn the Younger, the Lord Fairfax of
Gilling, Mr. Anthony Mennell, Mr. Lawrence Saire.

Ile of Wight.

Anglesey.

Brecknock.

Mr. Winter, Mr. Bevan, Mr. Maddock.

Carnarvon.

Mr. Lewis.

Caermarden.

Mr. Towley.

Cardigan.

— Lewis.

Glamorgan.

Mr. Turberville the Younger.

Denbigh.

Mr. Richard Floyd, Mr. Crew.

Flintshire.

Sir John Connoway, Mr. Pennal.

Monmouth.

Sir Charles Somerset, Mr. Morgan of Lantarnam,
Mr. Morgan of Itton.

Montgomery.

Sir Percy Herbert.

Merioneth.

Pembrokehire, Mr. Towneley of Arncliffe.

Radnorshire.

Thomas Crowther.

A Note of those Shires which are designed to set forth
Foot and Horse for his Majesty's Service against the
Scots.

	Foot.	Horse.		Foot.	Horse.
K ent	1200	150	Devon	2000	60
Cornwal	1500	000	Essex	1500	125
Somerset	1200	150	Glocester	1000	100
Wilt	700	78	Warwick	300	44
Bedford	200	40	Hartford	500	40
Berks	400	44	Norfolk	1800	200
Middlesex	750	40	Northampton	700	150
Buckingham	300	40	Southampton	1000	85
Oxon	300	40	Surrey	500	65
Cambridg	400	40	Sussex	640	80
Suffolk	1500	50	London	3000	000
Dorset	700	50			

W A L E S.

W A L E S.

	Foot.	Horse.		Foot.	Horse.
Flint	60	25	Dembrook	150	50
Anglesey	100	22	Montgomery	10	100
Brecknock	100	17	Radnor	50	50
Cardigan	50	17	Hereford	150	40
Carmarthen	100	17	Shropshire	300	35
Caernarven	500	12	Worcester	300	35
Denbigh	250	25	Merioneth	150	23
Glamorgan	† 1000	100	Bristol	50	000
Monmouth	500	56			

† If not a mistake.

The sum of Foot — 23670

The sum of Horse — 2366

A true List of the number of *Horse*, *Pikemen*, and *Musquetiers*, *Dragoons* and *Cuirassiers*, set out for this present Service for *Scotland*, at the Charge these Counties and Shires following.

Cumberland — 125 Pikes. 125 Musq. 50 Dragoons.

Northumberland — 250 Pikes. 250 Musq. 100 Drag.

Westmoreland — 125 Pikes. 125 Musq. 50 Drag.

Newcastle — 250 Pikes. 250 Musq. 350 Drag.

York — 6720 Musq. 5521 Pikes. 60 Horse.

Durresme — 532 Musq. 500 Pikes.

Lancashire — 420 Musq. 180 Pikes. 50 Drag.

Northumberland — 282 Musq. 125 Pikes.

Cheshire — 356 Musq. 244 Pikes. 50 Car.

Stafford — 248 Musq. 152 Pikes. 30 Horse.

Derby — 239 Musq. 161 Pikes. 74 Horse.

Lincoln — 1080 Musq. 720 Pikes. 230 Car.

Leicester — 290 Musq. 110 Pikes. 38 Horse.

Rutland — 60 Musq. 40 Pikes. 30 Horse.

Westmoreland, *Cumberland*, *Northumberland*, and the Town of *Newcastle*, are not to March into the Field but upon special Direction.

The Total of all the Foot in the ten Counties — 19483

The Total of all the Horse — 1233

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A List of *Horses* and *Carters* to be sent out of divers Counties,
for Carriage of the Train of Artillery, &c.

	Horses.	Carters.		Horses.	Carters.
Bedford	50	17	Middlesex	30	10
Berks	30	10	Norfolk	60	20
Buckingham	50	17	Northampton	70	23
Cambridge	50	17	Nottingham	50	17
Derby	60	20	Oxon	40	13
Dorset	20	07	Rutland	20	07
Essex	60	20	Salop	40	13
Gloucester	50	17	Somerset	20	07
Hartford	50	17	Southampton	50	17
Hereford	30	10	Stafford	50	17
Huntington	50	17	Suffolk	60	20
Kent	20	07	Warwick	60	20
Leicester	70	23	Worcester	50	17
Lancaster	50	17	Wilts	50	17
Lincoln	60	20			
			Total of Horses		
			1350		

A List of His Majesty's Navy, with the Names of Ships
for this Summer, 1639.

	The Captains.
The <i>Rainbow</i>	Sir John Pennington.
The <i>Vanguard</i>	Capt. Povey.
The <i>Victory</i>	Capt. Minns.
The <i>Unicorn</i>	Capt. Murrey.
The <i>James</i>	Capt. Figg.
The <i>Leopard</i>	Capt. Cartwright.
The <i>Antelope</i>	Capt. Stradling.
The <i>Bonaventure</i>	Capt. Feilding.
The <i>Dreadnought</i>	Capt. Kirk.
The <i>Mary-Rose</i>	Capt. Hall.
The <i>Expedition</i>	Capt. Shurgsby.
The <i>Providence</i>	Capt. Flemmin.
The <i>second Whelp</i>	Capt. Barlow.
The <i>eighth Whelp</i>	Capt. Fox.
The <i>Roebuck</i>	Capt. Wolward.
The <i>City Ship</i>	Capt. Popham.

At

At Whitehall, Febr. 16. 1638.

A Letter to the Lord Arch-Bishop of Canterbury his Grace, touching Clergy-men, Defaulters at Musters in the County of Devon.

Whereas the Deputy Lieutenant of the County of Devon, returned a Certificate to the Earl of Bedford, Lord Lieutenant of that County, and his Lordship to the Board, of divers Defaulters in Arms in the said County. And namely among others, Mr. Pyne Clerk of Beerforris, Mr. Burnal Parson of Highbickington, Mr. Strode Rector of Dittisham, and the Parsons of Woulsworth, Puddington, Washford, East-Buckland, Bondly, Cleveborough, and Bittadon, for their Spiritual Livings; which ill Example of theirs, may prove very prejudicial to his Majesty's Service. We have therefore thought good hereby, to pray your Grace to send to the Lord Bishop of that Diocese concerning the same; that his Lordship calling the Parties aforesaid before him, may give effectual directions to them to conform themselves, and forthwith provide such Arms as by the Bishop of that Diocese have bin, or shall be set upon them; which if they, or any of them, shall refuse to do, in convenient time, after notice given them, then his Lordship is to require them, so refusing, to give their personal attendance upon the Board some day in Easter-Term next; And so, &c.

At Whitehall, Feb. 16. 1638.

A Letter directed to the Earl of Newport, Master of the Ordnance.

Whereas Sir Jacob Ashley hath advertised, that it is requisite there should be sent to Hull a proportion of Arms for Curassiers, and a good number of Partisans and Halberts, which together with some other Arms, both for Horse and Foot, he desires may (as he shall see cause to direct) be by Captain Legg, or such other as shall have charge thereof at Hull, sent thence to York, to be there sold to such Persons of that County as shall desire to buy the same for their use. We have therefore thought good hereby to pray and require your Lordships forthwith not only to send to Hull 200 Curassiers, 100 Partisans, and 200 Halberts, but also to give Order and Warrant to Captain Legg, and such other as have or shall have charge of his Majesty's Arms and Munition which are at Hull, or shall be sent thither, to send from time to time to York, or elsewhere thereabouts, such Arms and Munition, either for Horse or Foot, as Sir Jacob Ashley shall under his Hand direct, and to deliver the same into the Hands and Charge of such Persons as the Vice-President of York shall appoint to receive, sell, and deliver the same for the use of the Country; for which this shall be your Lordship's Warrant. And so praying your Lordship to give a speedy Order herein accordingly, we bid, &c.

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February 27.

The King's Majesty caused a Proclamation and Declaration to be published, to inform his Loving Subjects of his Kingdom of *England*, of the seditious Practices of some in *Scotland*, seeking to overthrow his Regal Power, under false pretence of *Religion*.

REciting, That whereas We have endeavoured now, for a long time together, by all calm and fair ways, to appease the Disorders, and tumultuous Carriages caused by some evil-affected Persons in Our Realm of Scotland, but hitherto all in vain; We have now thought it not only fit, but necessary in general, to inform all Our loving Subjects in this Our Realm of England, what the Truth is of Our Proceedings, what Our lenity and gentleness hath bin towards them, and what froward and perverse Returns they have made to Us, notwithstanding all their specious Pretences, the better to insinuate themselves and their odious Cause, into the minds of Our Loyal Subjects here. These Disorders and Tumults have bin thus raised in Scotland, and fomented by factious Spirits, and those traitterously affected, began upon pretences of Religion, (the common Cloak for all Disobedience) but now it clearly appears, the aim of these Men is not Religion, as they falsely pretend and publish, but it is to shake all Monarchical Government, and to vilify Our Regal Power, justly descended upon Us over them: Nay, their Malice reaches so far, both against Our Power and Person, as that in a most cunning and subtil way they have endeavoured to poison the Hearts of Our good and loyal Subjects of this Our Kingdom, and to seduce them (were it in their power) to the like Rebellious Courses with themselves. Now though we are most confident of Our Peoples Affections towards Us (of which they have given Us a clear testimony, by their ready and chearful assistance in this Cause) and have not the least thought that those turbulent Spirits shall any way prevail with them, yet We cannot but hold it requisite to give them timely notice of their traitterous Intentions, which very many ways appear unto Us.

As first, By the multitude of their printed Pamphlets, or rather indeed infamous Libels, stuffed full of Calumnies against Our Regal Authority, and Our most just Proceedings, and spreading of them in divers parts of this Our Kingdom.

Secondly, By their sending of Letters to private Persons, to incite them against Us; and sending some of their fellow-Covenanters to be at private Meetings in London and elsewhere, to pervert Our good People from their Duty; and some of these Meetings We know, and some of those Letters (lewd enough) We have seen.

Thirdly, By their publick contemning of all our just Commands, and their mutinous protesting against them, a course not fit to be endured in any well-ordered Kingdom.

Fourthly, By their rejecting of the Covenant commanded by Our Authority, because it was commanded by Us; whereas no Covenant or Band of that nature, in that Kingdom, hath ever bin, or can be legal

legal and warrantable, which hath not bin commanded, or at least assented unto by Royal Authority. As for instance, That Covenant in Our dear Father's Time was condescended unto by him, and so the Subject (at the humble Petition of the General Assembly it self) permitted by him to sign it; We say it again, That Our Covenant was rejected by them, because commanded by Us; and this is manifest, because for Matters of Religion Ours agreed in all things with their own Covenant. By which Covenant of theirs, they have treacherously induced many of Our People to swear to a Band against us: which Band and Covenant (or rather Conspiracy) of theirs, could not be with God, being against Us the Lord's Anointed over them. But it was, and is, a Band and Covenant pretended to be with God, that they may with the better countenance do the Works of the Devil, such as all Treasons and Rebellions are.

And lastly, By their most hostile Preparations in all kinds, as if We were not their King, but their sworn Enemy. For what can their Intentions be, being thus prepared, but to invade this Kingdom, should they not find Us ready, both to resist their Force, and to curb their Insolencies? For many, and some of the chiefest amongst them, are Men, not only of unquiet Spirits, but of broken Fortunes, and would be very glad of any occasion (especially under the colour of Religion) to make them whole upon the Lands and Goods of Our Subjects in England, who We presume (besides their Allegiance to Us) will look better to themselves and their Estates, than to share them with such desperate Hypocrites, who seek to be better and cannot well be worse. We demand again, What Intentions else they can have? for We have already often assured them by Our published Proclamations, That We are so far from thinking of any Innovation or Alteration of Religion, that We are resolved to maintain the same constantly, and as it is established by Law in that Our Kingdom. Nay, so desirous have We bin to give content unto them, as that We have in a manner condescended to all which they petitioned for: Nay, Our Princely Clemency in these produced no better effect, than increasing and daring Insolencies, to Our dishonour both at Home and Abroad; Yet We passed by all, till they struck at the very Root of Kingly Government, for they have now assumed to themselves Regal Power. For whereas the Print is the King's in all Kingdoms, these seditious Men have taken upon them to print what they please, though we forbid it; and to prohibit what they dislike, though We command it; and with the greater affront, have forbid and dismiss the Printer whom We established. Besides, they have taken upon them to convene Our Subjects, raise Armies, block up and besiege Our Castles; to lay Impositions and Taxes upon Our People, threatening such as continue in Loyalty to Us, with Force and Violence. To this We shall add, That they have slighted the Directions and Power of Our Council-Table in that Kingdom, and have set up Tables of their own, at which some of their Leaders sit under the Name of Committees, from the late pretended General Assembly, or their Deputies; and thus they meet when and where they please, Treat and Conclude what they please, and send their Edicts through all parts of the Kingdom without any consent, nay, without all knowledge of Us, Our Commissioner, or Council, and directly contrary to many standing Laws at this day in force in that Kingdom.

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Kingdom, and yet pretend Violation of their Laws, as one of the main Causes of their brain-sick Distempers.

Here therefore We take God and the World to Witness, We hold Our Self forced and constrained to Arm, not only to reclaim them, and to set Our Kingly Authority right again, in that Our Ancient and Native Kingdom, but also for the Safety of this Kingdom, Our Loyal Subjects in it, with their Wives, Children, and Goods, as well as Our own, against the Rage and Fury of these Men and their Covenant. And this We think fit to let you further know, that We hope in Time to make the best of them see, that We will endure no such Covenant and Band in Our Kingdom to which We shall not consent. So the Question is not now, Whether a Service-Book is to be received or not? nor whether Episcopal Government shall be continued, or Presbyterian admitted? But whether We are their King or not? For though in some of their Libels they give us good words, and speak Us fair for their own ends, especially in the last printed at Edinburgh, Februarii quarto 1639; yet some of them refused both the Oath of Allegiance and Supremacy, and publickly maintain, That they are not obliged to take the same. Now how can We think these Men are Dutiful and Loyal in their Hearts, that broach such dangerous Opinions? or religiously minded, that teach such rebellious Doctrine, and so contrary to all, which Protestant Divines teach towards the King and the Civil Magistrate? Nay, they have infected divers of their Country-men which are come into other Parts with the same Venom; for three Scots-men taken in Wales, are at this day imprisoned, for direct denial of Our Supremacy and their Allegiance, saying, They cannot take those Oaths, because they have sworn to the Covenant. But though we have bin thus mild towards them, and continued so long, yet we would not have any of them, or any of Our other Subjects think, that we can or will permit Episcopal Government, established by many Acts of Parliament in that Our Kingdom, to be abolished, seeing it is known to the whole Christian World, that the same is most Christian in it self, and most peaceable for the Civil State, and most consonate to Monarchical Government.

And we would have Our Subjects of that Kingdom consider, what will become of the third Estate there in Parliament, if Episcopacy should be abrogated?

And further we think fit to declare unto you, and to the Christian World, That by Our intention of introducing the Service-Book into that Kingdom, we had not the least thought of Innovation of Religion in this or that, but meerly to have a conformity with that Worship of God, which is observed within both Our other Kingdoms, though ill-minded Men have wrested some things in it to a sinister sence.

We further give you to understand, That there is a large Declaration coming forth, containing all the particular Passages which have occurred in this Business, from the very beginning, attested with their own foul Acts, to dishonour and shame their fair, but false words. But because this cannot so soon be made ready, we hold it most expedient to let this short Declaration forerun it, that Our Loyal Subjects here and else-where, may not be infected with their false, wicked, specious, but most seditious Informations: For Example-

Take,

fake, in their last Pamphlet (besides divers other false, base, and fawning Passages) there are these scandalous and most notorious Untruths: As first, they say, That we have committed the Arms we now take, and the Armies we now raise, into the hands of professed Papists; which is not more dishonourable to Our self, and the Noble Persons intrusted by Us, than odiously and notoriously false. Again, they say, That some of Power in the Hierarchy of England, have bin the Cause of Our taking Arms to invade Our Native Kingdom, and of meddling with their Religion: whereas it is most certain, that no one of them have done any thing therein, but by Our own Princely Direction and Command. And for Arms, it is notoriously known to all Our Council then present, That their counsels were for Peace, and have bin the Perswaders (as much as in them lay) of the undeserved Moderation wherewith we have hitherto proceeded towards so great Offenders.

And further they say, That they intend no Act of Hostility against England, unless they shall be necessitated in their own Defence. We would fain know, Defence of what? Is it of Disobedience? Defence against whom? Is it not against Us their True and Lawful Sovereign? If they will defend against Us, it ought to be by Law, and not by Arms; that Defence we shall never deny them, this by Arms we shall never permit them. Now Our Laws which they seem so much to value, are in a manner oppress by them, in so much that Our Judges are so awed, as that they dare hardly proceed according to Law.

With these and the like mutinous Libels, we desire our good Subjects should not be infected, but that all of them might know the present necessity we have to Arm Our Self, which is for no other End, save only for the Safety and Security of this Our Kingdom, the re-establishment of our Authorities in that, and the suppressing of such as have misled and abused Our Subjects there, and would (if not prevented) do the like here, but is no way to enforce any Innovation of Religion established in that Kingdom, or any ways to infringe the Laws thereof, or any of their Liberties whatsoever, which are according to Law.

These are therefore to Will and Command all Our Loving Subjects of this Our Kingdom, that they receive no more of their seditious Pamphlets sent from Scotland, or any other place concerning those Affairs, which can have no other use or influence, than to draw the Hearts of our Loial People to the like Rebellious Courses; and that such of Our Subjects here, as have already received any of these Rebellious Pamphlets, do presently deliver them to the next Justice of Peace, that he may send them to one of Our Secretaries, as both they and the Justices of Peace will answer it at their utmost perils.

And Our further Will and Pleasure is, That this Our Proclamation and Declaration be read in time of Divine Service in every Church within the Kingdom, that all our People, to the meanest, may see the notorious Carriages of these Men, and likewise the Justice and Mercy of all Our Proceedings.

Given at Our Court at Whitehall the 27th day of February, in the fourteenth Year of Our Reign, of England, Scotland, France and Ireland.

At

An. 1638.

At Whitehall, March 1. 1638.

A Letter directed to the Vice-President of York, and Council, concerning Provision to be made there.

After, &c. Whereas his Majesty, by his Letters sent in February last, hath formerly required you to take order, that there be timely care used, not only to hinder the exportation of all sorts of Grain, Butter, Cheese, and other Victuals out of that County, but to see that there be a good quantity of those Provisions, as also of Hay and Straw for Horle, provided in store in several parts of that County for supply of his Majesty's Army, which is intended to lie in the Northern Parts for Defence and Preservation of the same upon all occasions. And whereas for encouragement of such as should make any Provisions in that kind, his Majesty was pleased, by his said Letters, to give you Directions to assure all Men, that they shall be duly paid whatsoever shall be received from them.

Forasmuch as some Persons ill-affected to his Majesty's Service and just Resolutions, have endeavoured (as it is informed) to put causeless doubts into the heads of some in those parts, whereby to deter them from making any such store of Provisions as they would otherwise have made and reserved for that purpose. We are by his Majesty's express Command, hereby to require you again publicly to declare and make known, in all fitting Places; and not only in the County of York, but in all other the Northern Counties, to all Persons that either have in their Hands, or shall make any Provisions of Corn, Meal, Butter, Cheese, or other Victuals for Souldiers, or Hay, Oats, Pease, Beans, or Straw, for Horses, that they shall be duly paid whatsoever shall be received from them, according to the price of the Market. To the end that the Country may take notice, that his Majesty intends this Army for their Defence and Preservation, and not for their Prejudice, as ill-affected Persons endeavour by false Tales to insinuate. Hereof his Majesty and this Board doth expect to receive an Accompt of your effectual Endeavours before the 18th of this present March; and so we bid you farewell. Dated the third of March.

Memorandum

Memorandum quod septimo die Martii, Anno Regni Regis Caroli 14. Billa ista deliberata fuit Domino Custodi Magni Sigilli Angliæ apud Westmonasterium exequend.

CHARLES by the Grace of God, of *England, Scotland, France, and Ireland*, King, Defender of the Faith, &c. To Our Right Trusty, and Right well-beloved Cousin and Counsellor, *Thomas Earl of Arundel and Surrey*, and Earl Marshal of *England*, and Knight of the most Noble Order of the Garter, Greeting.

Now ye, that we reposing special trust and confidence in your approved Wisdom, Fidelity, Valour and great Ability, have assigned, made, constituted, and ordained you to be the General of Our Army intended forthwith to be raised: and over all Our Men, which be, or shall be levied in all Our Counties of this Our Realm, or Dominion of Wales; and assembled, or to be assembled to any Army, or Armies, to resist and withstand all Invasions, Tumults, Seditions, Conspiracies, or Attempts that may happen to be made against Our Person, or State; and to Rule, Govern, Command, Dispose and Employ the same Army, and all Officers so employed, or to be employed concerning the same, with all such farther Forces, of what Nation soever, as shall be hereafter joined thereunto for their supply, for the accomplishment of such Executions, Defences, Offences, and other Services as are or shall be by Us from time to time directed, limited, and appointed, in or by such private Instructions as are herewith delivered unto you under Our Signet Manual. And farther, we have given you full Power and Authority, That the same Persons so levied or assembled, or so to be levied or assembled by you, or sent, conducted, or brought, or that otherwise shall come to you, either by our several Orders, or by Authority of this our Commission as aforesaid, to try, array, and put in readiness; and them, and every of them after their Abilities, Degrees, and Faculties, well and sufficiently cause to be Weaponed, and Armed; and take, or cause to be taken, the Musters of them, or any other our Trained Bands, which within this our Realm of England, and Dominion of Wales, from time to time, in Places most meet for that purpose, after your good Discretion. And also the same our Subjects so Arrayed, Trained, and Armed, as well Men of Arms, as Horse-men, Archers, and Foot-men of all kinds and degrees, meet and apt for the Wars, to Govern, Lead, and Conduct, against all and singular our Enemies attempting any thing against Us, Our Crown and Dignity; and Our said Army to divide, distribute, and dispose, and the same, or any part thereof, to convey by Land, or by Water, as occasion shall require, according to your good discretion; and with the same Enemies, Rebels, and Traitors, to fight, and them to Invade, Resist, Repress, Pursue, and follow into any Our Dominions; and them to subdue, and to do, fulfil and execute all, and singular other things which shall be requisite for the Leading, Government,

Lord Marshal's Commission.

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Government, Order, and Rule of our said Armies and Subjects, and for conservation of our Person and Peace. And farther to do, offer, and execute against the said Enemies, Rebels, Traitors, and their Adherents, and other Delinquents and Offenders, as need shall require, by your Discretion, by the Law Martial, as our General: And of such apprehended and brought into subjection, to save whom you shall think good to be saved, and to slay, destroy, and put to execution of Death, such and so many of them as you shall think meet by your discretion, to be put to death by any manner of means, to the terror of all other Offenders. And we do farther give unto you our General, full Power and Authority, for Us, and in our Name, as occasion shall require, according to your good discretion, by publick Proclamation, to make tender of our Royal Grace and Pardon, to all such Traitors, Rebels, and all other Offenders as shall submit to Us, and design to be relieved by our Mercy. And further, our Will and Pleasure is, and by these Presents We do give you full Power and Authority, that in case any Invasion of Enemies, Insurrection, Rebellion, Riots, Routs, or unlawful Assemblies, or any like Offences shall happen to be moved, That then, as often as you shall perceive any such Misdemeanours to arise, You, with all the Power you can make, shall with all diligence repair, and send convenient Forces to the Places where any such Attempt, Invasion, unlawful Assembly, Insurrection, or Rebellion shall happen to be made; and subdue, repress, and reform the same, as well by Battel, or other kind of Force, as otherwise by the Law of the Realm, or the Law Martial, according to your good discretion. And for the better execution of this our Commission, We do farther give you Power and Authority, from time to time, to command and require of all our Lieutenants special, and their Deputy Lieutenants of the severall Counties of this our Realm, or Dominion of Wales, to send to you such number of Able Men for the Wars, as well Horse-men as Foot-men of the Trained-Bands, or other, sufficiently armed and furnished, to such Place and Places, and at such Time and Times, as you in your Wisdom shall appoint and require: Which said Forces you are to govern, order, and dispose, as your present Occasions shall require, for the advantage of our Service, according to your good discretion. And farther, for your better assistance in this our Service, We do hereby assign, make, constitute, and ordain, our Right Trusty, and Right Well-beloved Cousin, Robert Earl of Essex and Eme, Viscount Hereford and Bouchier, Lord Ferrers of Chartley, Lord Bouchier, to be our Lieutenant General of this our Army; and our right Trusty, and right Well-beloved Cousin and Counsellor, Henry Earl of Holland, Lord Chief Justice and Justice of Eyre of all our Forests, Chaces, Parks, and Warrens on this side Trent, first Gentleman of our Bed-Chamber, and Knight of the most noble Order of the Garter, to be our General of our Troops of Horse, to serve in Our said Army for the Execution of this our Commission, according to such Directions as from time to time you shall think fit to give unto them. And farther, We do give you Power and Authority, to appoint within our said Army, a Provost-Marshal, to use and exercise that Office, in such case as you shall think fit to use the said Law Martial. And We do also give you our General full Power and Authority by these Presents,

Presents, to Hear, Examine, and Debate, as well by your self, as by your sufficient Deputy, or Deputies, all Criminal Causes growing and arising within Our said Army, as well concerning the Death of any Person, as loss of Member; and all Causes Civil, whatsoever they be, that shall happen or chance within this Our said Army. And also We give you full Power and Authority to Make, Constitute, and ordain Ordinances and Proclamations, from time to time, as the Case shall require, for the good Government, Rule, and Order of Our said Army; and the same, and every one of them Causes, to be duly proclaimed, performed, and executed: and whomsoever you shall find contemptuous, disobedient, or disorderly in our said Army, to attach, apprehend, and imprison, and them and every of them to chastise and punish: and such as shall be imprisoned, you shall cause them to be proceeded against according to the quantity of the Offence, as well by pains of Death, as loss of Member, or otherwise, according to your discretion; and to deliver and set at liberty any Person so imprisoned, as by you shall be thought convenient. And for encouragement of fit and deserving Persons, We do give you full Power and Authority in Our absence, to reward and honour with the Order of Knighthood, and of Knights-Demerits, such as in your discretion shall deserve the same in this our present Service; and to grant and assign them Arms, and Ensigns of Arms as is need, and to the Office of a General appertaineth. And We do farther give Power and Authority to you Our General, for Causes especially moving you, by your Letters under your Seal, from time to time, when, and as often as to you shall seem meet, to grant safe Condukt, general and special, in all places, by Land or by Water, to any Persons whatsoever; and generally to do and execute all and every thing and things, which to the Office of a General of Our said Army doth belong and appertain; and which for the good and safe Government of Our Army, and Subjects, shall be thought expedient and necessary. And for the better execution of this Our Service, We do further give you Our General, full Power and Authority, as occasion shall require, to Command all Our Forts and Castles now Fortified, or hereafter to be Fortified, in or near the Parts or Places where Our said Army from time to time shall be; and to amove, displace, and continue the Captains, Lieutenants, and Souldiers and Garrisons there, as cause shall require; and to furnish the same Castles and Forts with other Captains, Lieutenants, and Souldiers, as you shall think meet, for the safety and good of the Army, and the advantage of this Our Service. And We Will and Command you, Our General, that with all speed you do execute the Premises with effect. Wherefore We Will and Command all and singular Lieutenants special, Dukes, Marqueses, Earls, Vicounts, Barons, Baronets, Knights, Sheriffs, Mayors, Bailiffs, Constables, Captains, petty Captains, Souldiers, and all other Officers, Ministers, and Loving Subjects, of what Estate, Degree, or Condition soever he or they shall be; That they, and every of them, with their Power, and Servants, from time to time, be attendant, aiding and assisting, counselling, helping, and at your Commandment, at the due execution hereof, as

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they and every of them tender Our Pleasure, and will answer the contrary at their Perils. And farther, Our Pleasure is, That whatsoever you shall do by virtue of this Our Commission and Private Instructions, and according to the Tenor and Effect of the same, touching the execution of the Premises, or any part thereof, you shall be discharged in that behalf against Us, Our Heirs, Successors. Yet nevertheless Our Intent and Meaning is, That this Our present Commission, or any thing therein contained, shall not impeach or infringe the Office of Earl-Marshal of England, or any Right or Jurisdiction incident or belonging to the same. In Witness whereof We have caused these our Letters to be made Patents, and to continue during our Pleasure.

May it please your most Excellent Majesty, This containeth your Majesty's Commission to Thomas Earl of Arundel and Surrey, Earl-Marshal of England: Whereas your Majesty doth appoint him General of your Majesty's Army; Robert Earl of Essex to be your Majesty's Lieutenant General, and Henry Earl of Holland your Majesty's General of your Troops of Horse, to serve in the Army with their sundry Powers and Jurisdictions, the said Lord General of the Army; which have been seen and approved of by your Majesty;

And is done by Warrant under your Majesty's Signet Manual.

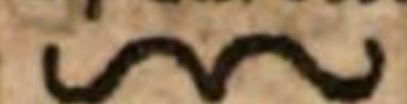
Jo. Banckes.

At the Court at Whitehall, March 8. 1638.

Nobility and Gentry to have the pre-emption of Horses at *Wooborn* Fair.

Whereas divers of the Nobility and Gentry of this Kingdom, who are to attend and serve His Majesty in the Expedition now in hand, are by his Majesty's express Command to attend with Horses according to their several Qualities. And whereas it is informed, that divers Horse-courers do usually either forestall the Markets, or ingross into their hands the Horses which come to Fairs and Markets, and thereby inhaunce the prices of Horses to unreasonable rates. And whereas *Wooborn* Fair, which is usually a great Horse-Fair, falls out to be some fix days hence. These are therefore to will and require you to have especial care, that no Horse-Courser, nor any for them, shall be permitted to buy any Horses within that Fair, or Town, and the Precincts and Liberties thereof, until the last day of the said Fair, to the end the Nobility and Gentry having the pre-emption, may by that time have furnished themselves with such number of Horses for his Majesty's Service, as they shall think fit to buy there. And lest by any practice or combination of the Horse-courers, or out of any other by-respect in the Seller, it should happen that Men refuse to sell their Horses at reasonable and usual prices, you are at the beginning of the said Fair, to make known and publish, (and accordingly see it put in execution) that no Person shall be permitted to sell any Horse, either to a Horse-Courser, or

14 Caroli.



or any other employed for them at any lower rate or price than that which he had bin offered by those imploied as aforefaid for his Majesty's Service. And these are further to signify unto you, that the Bearer hereof, *John Ward*, Gentleman of my Horse, is by me purposely sent to see the due execution of these Directions, whom I require you to assist in the furtherance of this Service, as you will answer the contrary at your peril.

From *Whitehall*, March 15.
1638.

Earl Marshal.

At *Whitehall*, March 11. 1638.

Starch-makers
Warrant.

Whereas *Robert Smith*, *Leonard Stockdale*, *Hugh Care*, and *Nathaniel Fox*, are lawfully deputed and authorized, by the Master, Wardens, and Assistants of the Company of *Starch-makers*, according to the Power and Authority given to the said Corporation, by his Majesty's Letters Patents and Proclamation, to search for (with the assistance of a Constable, and other lawful Officers) in all suspected Places, and to seize and carry away all White Starch, and Materials prepared for making of White Starch, as likewise all White Starch imported from Foreign Parts, contrary to the said Letters Patents, and his Majesty's Proclamation. And to break, deface, and destroy all Pans, Cisterns, and other Vessels imploied or set up for the making of White Starch, or Materials belonging to the making of White Starch, contrary to the said Letters Patents, and his Majesty's Proclamation. These are therefore in his Majesty's Name, straitly to charge and command you, and every of you, when and as oft as need shall require, to help and assist to the uttermost of your Power, the said *Robert Smith*, *Leonard Stockdale*, *Hugh Care*, and *Nathaniel Fox*, or any of them, in the searching for, seizing, and carrying away, to his Majesty's use, of all White Starch, and Materials prepared for the making of White Starch. As likewise all White Starch imported from Foreign Parts; and in doing and performing every Act and other thing directed by his Majesty's said Letters Patents and Proclamation. And in like manner to aid and assist them, or any of them, in the breaking and forcing open the Doors or Houses (when they cannot otherwise enter) where any prohibited White Starch, or Materials prepared for making of White Starch is suspected to be made or kept: And furthermore to apprehend all and every the wilful Offenders against his Majesty's said Letters Patents and Proclamation.

This following Advertisement was mislaid, when it should have bin inserted in its proper Place and Time, nevertheless we thought fit to insert it, because it brings some Intelligence in reference to the Scottish Affairs.

Letters of Intelligence concerning the Scots.

After *Marquess Hamilton's* arrival in *Scotland*, in the beginning of *June* this Year, as the King's High Commissioner, to settle the distracted Affairs of that Kingdom, he found (as is mentioned more fully in the Narrative we have already given of the Commotions in *Scotland*)

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Cardinal Rich-
leu's Chaplain
in Scotland.

Scotland) great Opposition by the *Covenanters*, and more particularly by their Protestation against the King's Declaration of June the 28th, That his Majesty will not press the practice of the *Service-Book*, and *Canons*, &c.

At this time the Church of *Rome* had Agents in *Scotland* as well as in *England*, one of them who subscribes a Letter, probably was Cardinal *Richleu's* Chaplain, by name *Chambers*, or *Chamberlain*, who was then present in *Scotland*, blowing the Coles of Fire there kindled; which Letter concerned the Affairs of *Scotland*, and was to the effect following, dated June 28.

My Reverend Father,

I Have not bin at London five days in all since I came from France, else I had not failed to salute your Reverence, &c. I know not what to say of Mortimer the Superior of Scotland, as knowing not whether he hath leave to go or not, nor yet their Procurer who resides in this Court. Scotland is in a very ill posture, and in evident danger to sever it self from this Crown.

And in another Letter of the same date, the same Party writes this ensuing Letter.

S I R,

BY all these Proceedings, the King evidently seeth, that they (the Scots) will not submit themselves to Reason, by fairness or sweetness, and therefore he hath taken a Resolution to tame them by Force, and to this purpose goeth about to raise an Army in Ireland, not daring to trust himself with the English, who already are much irritated against him, by reason of the * Monies which he pretends to raise to maintain his Fleet, the which they refuse down-right to pay. This counsel of raising an Army, has been suggested unto him by the Bishop of Canterbury, and the President of Ireland, which are they alone that govern him, for he hath never yet opened his Mouth, or spoken one sole word of it to his Council of State, but seeks very much to keep all close from them. The which highly displeaseth all these Lords; and Men hold this Counsel of the Army for Ireland, a most pernicious Counsel: But I know not what better he could take, for it is most dangerous to raise it in England, where all the World is discontent; and for to raise an Army here, it were to give them the Sword in their hands to defend themselves; for the part of the Puritans is so great, and they have such a correspondence with the Scots, that they begin already to break the Altars which the Bishops had erected, and to accuse the Bishops of Crimes, and to demand the re-establishment of many silenced Ministers, with a thousand other Insolencies, &c.

* Ship-mony.

June 28.

Your humble and most
obliged Servant.

At

At the same time there was another Letter of the same date writ to one Monsieur Ford, by some Priest or Romish Recusant, to the effect following: All which said Letters were found amongst the Papers of one of his Majesty's Privy-Council.

Our Scots Business troubles us shrewdly, and grows worse and worse; they will have a Parliament, and the King (for the Consequence of it in this Kingdom) will never permit it, and so they have taken a Resolution to levy an Army in Ireland, so to trouble them and subdue them; which is held there by wise Men to be a very desperate Counsel. But the King consults with none but the Arch-Bishop and the Deputy of Ireland; which disgusts all, and makes Men see more weakness in him than was ever imagined; other News we have none. Fitten (the Agent for the Secular Priests at Rome) is here, and was presented to the King by my Lord Arundel, to whom he had sent from Italy many little Toys, but now he knows he is a Priest. Pray tell my dear Amiable, I thank him heartily for his Note, and have seen his Man Jaques Depuis, who is a good Cutter or Graver in Stone, and continues Catholick, Honest, and known to the Capucins.

Tours,

Will. Heill.

Having ended this Year as to *English Affairs*, we shall return to the Transactions of Affairs in *Scotland*, where we left, and to give an Account of the whole Proceedings of the Assembly at *Glasgow*; and the first that comes in Order of Time, is his Majesty's Letter to the Privy-Council of *Scotland*, to assist the Marquess at the said Assembly at *Glasgow*, as followeth.

Right Trusty, and Right Well-beloved Cousin and Counsellor; K. D.
Right Trusty, and Right Well-beloved Cousins and Counsellors,
We greet you well.

AS by Our Letter We find how well you are satisfied with Our gracious Pleasure, expressed in Our late Proclamation and Declaration, so We do expect the continuance of your Care, by your best Endeavours, to bring all Our good People to a true sense of Our Roial Intentions, and real Care of preferring and advancing the Good and Peace of that Church and Kingdom, which hath always bin, and still is one of Our chiefest Cares; We give you hearty thanks for your Affection and Pains in this Service, and do approve of your Course in subscribing of the *Confession* and *Band*, and order taken by you for publishing, and requiring the like due and thankful acceptance of Our gracious Pleasure by all Our good Subjects. And seeing the time of the Assembly doth now approach, We require you to attend diligently upon Our Commissioner, until the time appointed for the down-sitting of the said Assembly, and further, to the final ending thereof, that from time to time you may be assisting to him with your best Opinions and Advices, for preparing and digesting every thing that

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‘that may conduce to bring this Business to be treated upon in the
 ‘Assembly, to the wished, peaceable, and happy end: And although
 ‘We will not doubt but that all Our good Subjects will be careful of
 ‘every thing that may concern Us, or Our Sovereign Authority; yet
 ‘because that at such publick and general Meetings, it is not to be
 ‘expected that all Mens Dispositions will be alike, and of one temper,
 ‘We require you, that in a more particular manner, according to the
 ‘Trust and Confidence We have in your Affections to Our Service,
 ‘carefully to advert, That if any Proposition shall be made which
 ‘may seem to derogate from Sovereignty, or that true state of Mo-
 ‘narchical Government already established within that Kingdom, or
 ‘which may impede the peaceable conclusion of this Assembly, that as
 ‘good Subjects, and faithful Counsellors and Servants to Us, you assist
 ‘Our Commissioner to withstand the same to the uttermost of your
 ‘Power. To whom We will you to give absolute Trust in every
 ‘thing, which he in our Name shall deliver or impart to you, or any
 ‘of you, in publick or in private. And so We bid you farewell.

From our Manour of *Hampton-Court*, the first of *October*, 1638.

The City of *Glasgow* being much filled and thronged with all sorts of People; on the 21 of *November* 1638, the day designed by the King's Proclamation, the General Assembly begun, and was opened, and the Proceedings were as followeth.

After Sermon in the Morning, they assembled in the Afternoon, and begun with the chusing of a Moderator. The King's Commissioner (who sat upon a Seat, raised in a Place eminent above the rest, with his Assessors about him conveniently seated below) told them that there was something else to be done before the choice of the Moderator, *viz.* That his Commission was first to be read, that it might be known by what Authority he sat there; which was done accordingly, bearing date at *Oatlands* the 29th of *July* 1638. The Commission followeth in these words.

Marquess *Hamilton's* Commission as to the Assembly.

Oatlands, *July* 29, 1638.

*C*AROLUS Dei Gratia, Magnæ Britanniae, Franciæ, & Hyberniae, Rex, Fideique Defensor. Omnibus probris hominibus suis ad quos præsentēs literæ pervenerint, salutem. Sciatis nos considerantes magnos in hoc Regno nostro Scotiæ non ita pridem exortos tumultus, ad quos quidem componendos multiplices Regiæ nostræ voluntatis declarationes promulgavimus, quæ tamen minorem spe nostra effectum hæcenus sortitæ sunt & nunc Statuentes ex pio erga dictum antiquum Regnum nostrum affectu, ut omnia gratiose stabiliantur & instaurentur, quod (per absentiam nostram) non alia ratione melius effici potest quam fideli aliquo delegato constituto, cui potestatem credere possimus tumultus hujusmodi consopendi aliæque officia præstandi. quæ in bonum & commodum dicti antiqui Regni nostri eidem delegato nostro imperare nobis videbitur, cumque

cumque satis compertum habeamus obsequium, diligentiam & fidem prædilecti nostri consanguinei & consilarii, Jacobi Marchionis Hamiltonii, Comitis Arraniæ & Cantabrigiæ, Domini Aven & Annerdail, &c. eundemque ad imperata nostra exequenda sufficienter instructum esse, idcirco fecisse & constituisse, tenoreque præsentium facere & constituere præfatum prædilectum nostrum consanguineum & consiliarium Jacobum Marchionem de Hamiltoun, &c. nostrum Commissionarium ad effectum subscriptum, cum potestate dicto Jacobo Marchioni de Hamiltoun, &c. dictum Regnum nostrum adeundi, ibidemque præfatos tumultus in dicto Regno componendi, aliaque officia à nobis eidem committenda in dicti Regni nostri bonum & commodum ibi præstandi, eoque Consilium nostrum, quibus locis & temporibus ei visum fuerit convocandi, ac rationem & ordinem in præmissis exequendis servandum, declarandi & præscribendi, & quæcunque alia, ad Commissionis hujus capita pro commissa ipsi fide exequenda, eandemque ad absolutum finem, perducendam & prosequendam conferre possunt, tam in Concilio quam extra Consilium nostro nomine efficiendi & præstandi, idque similiter & adeo libere, ac si nos in Sacro-Sancta nostra persona ibidem adessemus. Præterea cum plena potestate dicto Jacobo Marchioni de Hamiltoun prout sibi videbitur nostro servitio & bono dicti Regni nostri conducere, conventum omnium ordinum ejusdem Regni nostri judicandi, ac publica Comitia & conventus eorumdem ordinum eorumve alterius vel utriusque quibus temporibus & locis sibi visum fuerit statuendi, & ibidem nostram sacratissimam Personam, cum omnibus honoribus & privilegiis, supremo Commissionario nostri Parliamenti & publici Conventus incumbend. similiter adeoque ample, sicut quivis supremus Commissionarius in quocunque tempore retroacto gavisus est gerendi, nec-non cum potestate præfato Jacobo Marchioni de Hamiltoun Synodos Nationalis Ecclesiæ dicti Regni nostri tenendus temporibus & locis quibus sibi visum fuerit indicendi, & ibidem & seipsum tanquam nostrum Commissionarium gerendi, omniaque eisdem tenendis inservientia secundum leges & praxin prædictæ Ecclesiæ & Regni nostri præstandi: Et hac præsentis nostre Commissionis durante nostro beneplacito duratura & semper donec eadem per nos expresse inhibeatur. In cujus rei testimonium præsentibus Magnum Sigillum nostrum una cum privato nostro Sigillo (quia præfatus Marchio de Hamiltoun in præsentiarum est Magni Sigilli custos) apponi præcepimus. Apud Oatlands vicesimo nono die mensis Julii, Anno Dom. millesimo sexcentesimo tricesimo octavo, & Anno Regni nostri decimo quarto.

14 Caroli.

Per Signaturam Manu S. D. N. Regis superscriptam.

Then the Assembly urged the choice of a Moderator, but the Marquess desired first the King's Letter to be read; which was done, and is as followeth.

The King's Letter to the Assembly.

‘**A**Lthough We be not ignorant, that the best of Our Actions have bin mistaken by many of Our Subjects, in that Our Ancient Kingdom, as if We had intended Innovation in Religion and Laws; yet considering nothing to be more incumbent to the Duty

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‘of

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‘ of a Christian King; than the advancement of God’s Glory, and the
 ‘ True Religion; forgetting what is past, We have seriously taken in-
 ‘ to Our Princely Consideration such Particulars as may settle and esta-
 ‘ blish the Truth of Religion in that Our Ancient Kingdom; and also
 ‘ to satisfy all Our good Subjects of the reality of Our Intentions here-
 ‘ in, having indicted a free General Assembly to be kept at *Glasgow*
 ‘ the 21 of this Instant. We have likewise appointed Our Commissio-
 ‘ ner to attend the same, from whom you are to expect Our Pleasure
 ‘ in every thing, and to whom We require to give that true and due
 ‘ Respect and Obedience, as if We were personally present Our Self:
 ‘ And in full assurance of Our consent to what he shall in Our Name
 ‘ promise, We have signed these, and wills the same for a Testimony
 ‘ to Posterity, to be registred in the Books of the Assembly.

At *Whitehall*, Octob. 29. 1638.

After this the Marquess made a Speech to the Assembly.

My Lords, and the rest of the Reverend Assembly,

The Marquess
his Speech at
the first sitting
of the Assem-
bly.

‘ **T**He making of long Harangues, is not suitable either with my
 ‘ Education, or Profession, much less with this Time, which
 ‘ now after so much talking, ought to be a Time of Action.

‘ I pray God that as great (and I hope the worst) part of Mens
 ‘ Spirits hath bin evaporated into bitter and invective Speeches, so
 ‘ the best and last part of them may be reserved for Deeds, and these
 ‘ answerable to the Professions which have bin made on ail sides
 ‘ when this great Assembly should come.

‘ For the Professions which have bin made by Our Sacred Sovereign,
 ‘ (whom God long preserve to reign over us) I am come hither, by
 ‘ his Command to make them good to his whole People, whom to his
 ‘ grief he hath found to have bin poisoned (by whom I know not
 ‘ well, but God forgive them) with misconceits of his Intentions,
 ‘ concerning the Religion professed in this Church and Kingdom. But
 ‘ to rectify all such Misconceptions of his Subjects, his Majesty’s desire
 ‘ is, That before this Assembly proceed to any thing else, his Subjects
 ‘ may receive ample and clear satisfaction in these Points, wherein his
 ‘ Majesty’s gracious Intentions have bin misdoubted, or glanced at,
 ‘ by the malevolent Aspects of such as are afraid that his Majesty’s
 ‘ good Subjects should see his clear Mind through any other Glasses or
 ‘ Spectacles, than those they have tempered and fitted for them.

‘ These sinistrous Aspersions, dispersed by Surmizes, have bin e-
 ‘ specially two.

‘ First, As if there had bin in his Majesty, if not some Intentions,
 ‘ yet at least some Inclination, to give way, if not to Alterations, yet
 ‘ to some Innovations in the Religion professed in, and established
 ‘ by the Laws of this Church and Kingdom.

‘ I am confident that no Man can harbour or retain any such
 ‘ thought in his Breast any more, when his Majesty hath commanded
 ‘ that *Confession of Faith* (which you call the *Negative*) to be sub-
 ‘ scribed by all his Subjects whatsoever, and hath bin graciously
 ‘ pleased to put the execution of this his Roial Command in your
 ‘ own hands.

‘ The

‘The next false, and indeed foul and devilish surmize, wherewith
‘his good Subjects have bin misled, is, That nothing promised in his
‘Majesty’s last most gracious Proclamation (though most ungraciously
‘received) was ever intended to be performed, nay, not the Assem-
‘bly it self; but that only time was to be gained, till his Majesty by
‘Arms might oppress this his own Native Kingdom; than which re-
‘port Hell it self could not have raised a blacker and falser.

‘For that part which concerneth the Report of the Intention of
‘not holding the Assembly, this Day and Place, as was first promised
‘and proclaimed, (thanks be to God) confuteth that Calumny abun-
‘dantly; for the other, making good what his Majesty did promise in
‘his last gracious Proclamation, his Majesty hath commanded me thus
‘to express his Heart to all his good Subjects.

‘He hath seriously considered all the Grievances of his Subjects,
‘which have bin presented to him by all and several of their Peti-
‘tions, Remonstrances, and Supplications exhibited unto himself, his
‘Commissioner, and Lords of his Secret-Council, and hath graci-
‘ously granted them all; and as he hath already granted as far as
‘could be by Proclamation, so he doth now desire, that his Subjects
‘may be assured of them by Acts of this General Assembly, and after-
‘wards by Acts of Parliament respective.

‘And therefore he not only desires, but commands that all the Par-
‘ticulars he hath promised, be first gone in hand with in this Assem-
‘bly, and Enacted, and then afterwards what his Subjects shall desire
‘being found reasonable, may be next thought upon, that so it may
‘be known to God and the whole World, and particularly to all his
‘good Subjects, how careful his Majesty is to discharge himself of all
‘his gracious Promises made to them, hoping that when you shall see
‘how roially, graciously, and faithfully his Majesty hath dealt with
‘you and all his Subjects, you will likewise correspond in loial and
‘dutiful Obedience, in chearful, but calm and peaceable Proceeding,
‘in all other Business to be treated of in this Assembly: And because
‘there shall be no Mistake, I shall now repeat the Particulars, that you
‘may see they are the same which were promised by his Majesty’s first
‘Proclamation.

As soon as the Marques had done speaking, he tendred to the As-
sembly a Paper from his Majesty containing his Concessions; which
Paper followeth in these words.

CHARLES REX.

The King’s Majesty being informed, That many of his good
Subjects have apprehended, that by the Introduction of the
Service-Book, and Book of Canons, the inbringing of Pope-
ry and Superstition hath bin intended, is graciously pleased to dis-
charge the said Books, and to annul all Acts made for establishing
thereof; and for his good People their further satisfaction, is gra-
ciously pleased to declare by me, That no other in that kind shall
hereafter be introduced, but in a fair and legal way of Assembly, al-
lowed by Act of Parliament, and the Laws of this Kingdom.

The King’s Majesty, as he conceived, for the ease and benefit of
the Subjects, established the High Commission, that thereby Justice
might

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Offers to the
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might be administered, and the Faults and Errors of such Persons as are made liable thereto, taken order with, and punished with the more convenience, and less trouble to the People: But finding his gracious Intentions to be herein mistaken, hath bin pleased, like as he is graciously content, that the same be discharged, with all Acts and Deeds made for the establishing thereof, and is pleased to declare by me, That that Court or Judicatory, nor no other of that nature, shall be brought in hereafter, but in that way allowed by the Laws of this Kingdom.

And the King's Majesty being informed, That the urging of the five Articles of Perth's Assembly hath bred distraction in the Church and State, hath bin graciously pleased to take the same into his consideration, and for the Quiet and Peace of Church and State, doth not only dispense with the practice of the said Articles, but also discharges, and by these hath discharged all and whatsoever Persons from urging the practice thereof, upon either Laick or Ecclesiastick Person whatsoever: And doth hereby free all his Subjects from all Censure and Pain, whether Ecclesiastical or Secular, for not urging, praising, or obeying them, or any of them, notwithstanding any thing contained in the Acts of Parliament, or General Assembly to the contrary.

And because it is pretended, that Oaths have bin administered to Ministers at their entry, contrary and differing from that which is set down in the Acts of Parliament, his Majesty is pleased to declare and ordain, That no other Oath shall be required of any other Minister at his entry, than that which is expressly set down in the Acts of Parliament: And this he is content be considered of in the Assembly, to be represented to the Estates of Parliament, and enacted as they shall find expedient.

And that it may appear how careful his Majesty is, that no Corruption or Innovation shall creep into this Church, neither any Scandal, Vice, or Fault of any Person whatsoever, censurable or punishable by the Assembly, go unpunished, it is his Majesty's pleasure, like as by these his Majesty does assure all his good Subjects, that hereafter General Assemblies shall be kept as oft as the Affairs of this Kirk shall require: And to this Purpose, because it's probable that some things necessary for the present estate and good of this Church may be left unperfected at this present Assembly, We do by these in-

dict another Assembly to be holden at And
that none of our Subjects may have cause of Grievance against the procedure of Prelats, Our pleasure is, That all and every one of the present Bishops, and their Successors, shall be answerable, and accordingly from time to time censurable, according to their Merits by the Assembly; which his Majesty is likewise pleased be enacted in this present Assembly, and thereafter ratified in Parliament.

And to give all his Majesty's good People good assurance that he never intended to admit any alteration or change in the true Religion professed within this Kingdom, and that they may be truly and fully satisfied of the reality of his Intentions towards the maintenance of the Truth, and integrity of the same, his Majesty hath bin pleased to require and command all his good Subjects, to subscribe the Confession of Faith, subscribed by his dear Father in Anno 1580; and for that effect hath ordained the Lords of his Privy-

Council

14 Caroli.

Council to take some speedy course, whereby the same may be done through the whole Kingdom; which his Majesty requires likewise all those of this present Assembly to sign, and all other his Subjects who have not done it already: And it is his Majesty's Will, that this be inserted and registred in the Books of this Assembly, as a Testimony to Posterity, not only of the sincerity of his Intention to the said true Religion, but also of his resolution to maintain and defend the same, and his Subjects in the professing thereof.

C. R.

After the Marques had found the temper of the Assembly, he sent up Sir James Hamilton to the King, with a full account of all Matters; containing likewise the Characters of all the Counsellors, together with his Advice to his Majesty how to induce that Country to his Obedience; and to send a Fleet of some Ships to lie in the *Frith* to block up their Trade, and then to follow with a Royal Army. He also shewed the King how the Bishops had miscarried, and that their Ambition had bin great, but their Folly greater. Concerning which his Majesty wrote to the Marques;

That he totally agreed with him in the Characters of Men, as in the way he had set down to induce them to Obedience; only the time when to begin to act is considerable. To which end his Majesty fully instructed the Bearer with the state of his Preparations, that the Marques may govern himself accordingly. Dated at *Whitehall*, Decemb. 3. 1638.

The Assembly proceeded to the choice of a *Moderator*, which before the Commissioner gave way to, he entred a Protestation, That their Act should neither prejudice the King's Prerogative and Authority, nor any Law of the King's or Kingdom, nor bar the King from taking legal Exceptions, either against the Person elected, or irregularity of his Election; so they chose one Mr. *Alexander Henderson*, *nemine contradicente*, except Dr. *Hamilton*.

But at this time they rejected the reading of the *Declinator*, and went to the election of a new Clerk, whom without one contrary Voice they did chuse one Mr. *Archibald Johnston*, the Clerk Register of their Tables, (who was also Clerk of their Tables at *Edinburgh*) against whose Election the King's Commissioner likewise protested. At his admission he made a short Speech, declaring his unwillingness to accept the Charge, yet would not be wanting to contribute his part toward the defence of the Prerogative of the *Son of God*.

Archibald Johnston chosen Clerk Register.

The next day they spent in reading the several *Commissions of Elections*; but the King's Commissioner entred another Protestation, to take exception against their Elections in his own due time, only for the present he was contented they should go on, and a contestation did follow about the Commission for the *Presbytery of Peebles*, and another concerning the Election of the *Lay-Elders* for the *Presbytery of Brichen*.

Debate about Elections to the Assembly.

The Earl of *Montrose* presented a Commission, in which the Laird of *Dunn* was chosen *Lay-Elder*, by the Voice of one Minister and a few *Lay-Elders*.

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On the next day of their sitting, they went on in the rest of the Controverted Elections, and refused to hear the Lord *Carnegies* Election discussed.

The King in his Letter to the Assembly, had nominated for *Affessors* to the King's Commissioner, these six Persons.

Six Affessors
to the Assem-
bly nominated
by the King.

The Earl of *Traquair*, Lord Treasurer.

The Earl of *Roxborough*, Lord Privy-Seal.

The Earl of *Argile*,

The Earl of *Lauderdale*,

The Earl of *Southesk*,

And *Charles Stuart*, Advocate.

} Lords of the Privy-Council.

But they absolutely refused to let them have any Voice at all, telling the Commissioner, That he might consult with those Affessors if he pleased, but they were to have no Voice in the Assembly. Upon this the Marquess took Instruments according to the Scottish Form, to preserve the Privilege of his Majesty.

The Declinator
read.

The 27th of November, the King's Commissioner urged once again that the Bishops *Declinator* might be read, which was accordingly done by the Clerk of the Assembly; after it was ended, the King's Commissioner spoke home to them of the necessity of the *Declinator*, and unavoidable strength of the Reasons contained in the same, and in depressing their Libel against the Bishops, which he called *infamous* and *scurrilous*, both in the matter of it, and the manner of promulging of it.

The Moderator
laments the
hardness of the
Bishops hearts.

The *Moderator* in a short Speech deplored the obstinacy of the Bishops Hearts, who in all the *Declinator* had bewrayed no sign of remorse and sorrow for their wicked Courses; whereupon one *Gibson*, one of the Clerks of the Session, thundred out a verbal Protestation, That *they would pursue their Libel against the Bishops so long as they had Lives and Fortunes*.

The King's Commissioner protested against the Protestation, and discharged the Bishops Proctor from giving appearance for the Bishops before the Assembly; and the Commissioner perceiving that they intended to keep up their Tables, although the Assembly should be continued, and all Elections said to be disorderly, were approv'd of, and no Nullities admitted; and the King's Commissioner well weighing his Instructions, resolved the next day to dissolve the Assembly.

The Marquess on Novemb. 28. declares to the Lords of the Council, his Resolution to dissolve the Assembly.

According to which Resolution, on the 28th in the Morning, he called a Council in the *Chapter-House*, and told them, He was necessitated to dissolve the Assembly, and gave his Reason for doing it, using much industry to gain them to concur with him in it. The Earl of *Argile* asked, *If he was to desire the Councils Approbation of what he intended, or not?* The Marquess answered, His Instructions from his Majesty were clear and positive for what he was to do, and therefore it was not in his Power to let any Debate be, whether he should do

do it or not; only he desired their Concurrence and Advice as to the manner of doing it.

Two hours were spent in Discourse, but clear Advices were not given from any of them; from thence the Marquess went to the Church where the Assembly sat, and after he sat long a Witness to some Debates were among them, it was offered to be put to Vote, whether the Assembly was a Free Assembly, notwithstanding the Bishops *Declinator*, or not? Upon which the Marquess knowing well how the Vote would run, rose up and said;

‘I Find this day great contraries of humours in my self; first, cause of Joy, next cause of Sorrow; cause of Joy, in making good what hath bin promised by his Majesty; cause of Sorrow, in that I cannot make further known his Majesty’s pious Intentions.

‘You have called for a Free General Assembly; his Majesty hath granted you one most free on his part, and in his Intentions; but as you have handled and marred the Matter, let God and the World judge whether the least shadow or foot-step of freedom can be discerned in this Assembly by any Man who hath not given a Bill of Divorce both to his Understanding and Conscience; with what wresting and wringing your last Protestation charges his Majesty’s last gracious Proclamation in the point of Prelimitations, is both known and disliked by many, even of your own pretended Covenant; but whether your courses, especially in the Elections of the Members of the Assembly, be not only Prelimitations of it, but strong Bars against the freedom of it, nay utterly destructive both of the Name and Nature of a Free Assembly, and unavoidably inducing upon it many and main Nullities, will be made manifest to the whole World.

‘But his Majesty’s sincere Intentions, being to perform in a lawful Assembly all he hath promised in his gracious Proclamation; if you find out a way how these things may pass and be performed even in this Assembly, such as it is, and yet his Majesty not made to approve any way the Illegalities and Nullities of it, for satisfying all his Majesty’s good Subjects of the reality of his Meaning, I am by his Majesty’s special Command ready to do it, and content to advise with you how it may be done.

And after this he caused to be read his Majesty’s *Concessions*, as they had bin before proclaimed, upon which he took Instruments, that by producing and signing of them, first his Majesty’s Intentions were made known, next that in the producing and delivering of them, the lawfulness of the Assembly was not acknowledged; after that he went on and discoursed against the Constitution of the Assembly in the following words.

‘But now I am sorry I can go on with you no more, for the sad part is yet behind, about Ruling Elders; for neither Ruling Elders, nor any Minister chosen Commissioner by Ruling Elders, can have Voice there, because no such Election is warranted, either by the Laws of this Church or Kingdom, or by the practice or custom of either: for even that little which appeareth to make for those Elders in the Book of Discipline, hath at this time bin broken by you, there being

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‘ being more Lay-Elders giving Votes at every one of those Elections, than there were Ministers, contrary to the Book of Discipline; as in *Lanerick* but eight Ministers, and eighteen or nineteen Lay-Elders; and so in divers other Presbyteries: and in every Presbytery, when the Ministers upon the List were removed, the remaining Elders exceeded far the remaining Ministers. But say there were Law for those Lay-Elders, the interruption of the execution of that Law, for above forty Years, makes so strong a Prescription against it, that without a new reviving of that Law by some new Order from the General Assembly, it ought not again be put in practice; for if his Majesty should put in practice, and take the Penalties of any disused Laws, without new Intimations of them from Authority, it would be thought by your selves very hard dealing.

‘ To say nothing of that Office of Lay-Elders, it being unknown to the Scripture or Church of Christ for above 1500 Years, let the World judge whether these Lay-Men be fit to give Votes in inflicting the Censures of the Church, especially that great and highest Censure of Excommunication, none having Power to cast off the Church by that Censure, but those who have Power to admit into the Church by Baptism: And whether all the Lay-Elders here present at this Assembly be fit to judge of the high and deep Mysteries of Predestination, of the Universality of Redemption, of the Sufficiency of Grace given, or not given to all Men: of the Resistability of Grace; of total and final Perseverance, or Apostacy of the Saints; of the *Antilapsarian* or *Postlapsarian* Opinion; of Election and Reprobation; all which they mean to ventilate, if they do determine against the *Arminian*, as they give out they will.

‘ In many Presbyteries, these Lay-Elders disagreed in their Elections wholly, or for the most part, from the Ministers, and carried it from them by number of Votes, though in all reason the Ministers themselves should best know the abilities and fitness of their Brethren; and this was done in the Presbyteries of *Chirnside*, *Linlithgow*, *Aberdeen*, and divers more.

‘ How can these Men now Elected be thought fit to be Ruling-Elders, who were never Elders before, all or most part of them being chosen since the Indiction of the Assembly, some of them but the very day before the Election of their Commissioners, which demonstrates plainly that they were chosen only to serve their Associates turn at this Assembly.

‘ Since the institution of your Lay-Elders, by your own Principles, is to watch over the Manners of the People in the Parish in which they live; How can any Man be chosen a Ruling-Elder from a Presbytery, who is not an Inhabitant within any Parish of that Presbytery, as hath bin done in divers Elections, against all Law, Sense, or Reason?

‘ By what Law or Practice was it ever heard, that young Noblemen, or Gentlemen, or others, should be chosen Rulers of the Church, being yet Minors, and in all construction of Law thought unfit to manage their own private Estates; unless you will grant that Men of meaner Abilities may be thought fit to rule the Church, which is the House of God, than are fit to rule their own private Houses, Families, and Fortunes.

‘ By

By what Law can any Ruling-Elder be sent to a Presbytery to give Vote in any thing, especially in chusing Commissioners for the General Assembly, who is not chosen for that purpose by the Session of that Parish in which he is a Ruling-Elder? And who gave power to the Minister of every Parish, to bring with him to the Presbytery for that purpose any Ruling-Elder of his Parish whom he pleased?

But it is well known, that divers Elders gave Votes in these Presbyteries to the Election of some Commissioners here, who were not chosen by the Session of their several Parishes to give Votes in those Presbyteries; and therefore such Commissioners as were chosen by such Lay-Elders, can have no Vote here.

By what Law or Practice have the several Parishes or Presbyteries chosen Assessors to their Ruling-Elders, without whose consent some of the Commissioners here present are sworn not to vote to any thing?

This introducing of Ruling-Elders, is a burden so grievous to the Brethren of the Ministry, that many of the Presbyteries have protested against it for the time to come, some for the present; as shall appear by divers Protestations and Supplications ready to be here exhibited.

For the Ministers chosen Commissioners hither, besides that the fittest are passed by, and some chosen who were never Commissioners of any Assembly before, that so they might not stand for their own Liberty, in an Assembly of the nature whereof they are utterly ignorant, choice hath also bin made of some who are under the censure of the Church, of some who are deprived by the Church, of some who have bin banished and put out of the University of *Glasgow*, for teaching the Scholars that Monarchies were unlawful; some banished out of this Kingdom for their Seditious Sermons and Behaviour; and some for the like Offences banished out of another of his Majesty's Kingdoms, *Ireland*; some lying under the fearful Sentence of Excommunication; some having no Ordination or Imposition of hands; some admitted to the Ministry, contrary to the standing Laws of this Church and Kingdom, all of them chosen by Lay-Elders: What a scandal were it to the Reformed Churches, to allow this to be a lawful Assembly consisting of such Members, and to unlawfully chosen?

Of this Assembly divers who are chosen are at the Horn, and so by the Laws of this Kingdom are incapable of sitting as Judges in any Judicatory.

Three Oaths are to be administred to every Member of this Assembly; the Oath for the Confession of Faith, lately renewed by his Majesty's Commandment; the Oaths of Allegiance, and Supremacy; and whosoever shall refuse any of these, cannot be a Judge in any Judicatory of this Kingdom, and therefore resolve presently whether you will take them or not.

You have cited the Reverend Prelates of this Land to appear before you by a way unheard of, not only in this Kingdom, but in the whole Christian World, their Citations being read in the Pulpits, which is not usual in this Church; nay, and many of them were read in the Pulpits after they had bin delivered into the Bishops own hands. How can his Majesty deny unto them, being his Subjects, the benefit of his Laws, in declining all those to be their Judges,

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Judges, who by their Covenant do hold the principal thing in Que-
 stion, to wit, Episcopacy, to be abjur'd, as many of you do? Or
 any of you to be their Judges, who do adhere to your last Protesta-
 tion, wherein you declare, that it is an Office not known to this
 Kingdom, although at this present it stand established both by Acts
 of Parliament, and Acts of General Assemblies? Who ever heard of
 such Judges as have sworn themselves Parties? And if it shall be ob-
 jected, That the Orthodox Bishops in the first four, and other Ge-
 neral Councils, could not be denied to be competent Judges of the
 Hereticks, though before-hand they had declared their Judgments
 against their Heresies: It is easily answered, That in Matters of He-
 resie no Man must be patient, since in Fundamental Points of Faith
 a Man cannot be indifferent without the hazard of his Salvation, and
 therefore must declare himself to be on Christ's side, or else he is
 against him; but in Matters of Church-Government and Policy,
 which by the Judgment of this Church, in the 21 Article of our
 Confession, is alterable at the Will of the Church; It is not necessa-
 ry for any Man who means to be a Judge, to declare himself, especially
 against that Government which stands established by Law at the
 time of his Declaration, being not only necessary, but likewise un-
 lawful for him at that time so to do: Now this Declaration, all you
 who adhere to the last Protestation, have made even since you
 moved to be the Bishops Judges. Besides, even those Orthodox
 Fathers never did declare themselves against the Hereticks, their
 Persons or Callings, by Oaths and Protestations, as you have done;
 for that had bin a prejudging in them; and this prejudging in you,
 makes you now to be incompetent Judges.

Upon the whole Matter then there are but two things left for me
 to say; First, You your selves have so proceeded in the Business of
 this Assembly, that it is impossible the Fruits so much wished and
 prayed for, can be obtained in it; because standing as it does, it will
 make this Church ridiculous to all the Adversaries of our Religion, it
 will grieve and wound all our Neighbour-Reformed Churches who
 hear of it; it will make his Majesty's Justice to be traduced through-
 out the whole Christian World, if he should suffer his Subjects in
 that which concerns their Callings, their Reputations, and their
 Fortunes, to be judged by their sworn Enemies; if therefore you
 will dissolve your selves, and amend all these Errors in a new Electi-
 on, I will with all convenient speed address my self to his Majesty,
 and use the utmost of my intercession with his Sacred Majesty for
 the indiction of a new Assembly; before the meeting whereof, all
 these things now challenged, may be amended. If you shall refuse
 this Offer, his Majesty will then declare to the whole World, that
 you are disturbers of the Peace of this Church and State, both by
 introducing the Lay-Elders against the Laws and Practices of this
 Church and Kingdom, and by going about to abolish Episcopal Go-
 vernment, which at present stands established by both the said Laws.
 Two points (I dare say) and you must swear it, if your Conscien-
 ces be appealed to, (as was well observed by that Reverend Gen-
 tleman we heard preach the last Sunday) which these you drew into
 your Covenant were never made acquainted with at their entring
 into it, much less could they suspect, that these two should be made
 the issue of this Business, and the two Stumbling-Blocks to make
 them

‘ them fall off from their natural Obedience to their Sovereign.
 ‘ As for your pretence of your unlimited freedom, you indeed re-
 ‘ fused so much as to hear from his Majesty’s Commissioner, of any
 ‘ Precedent Treaty, for the preparing and right-ordering of things be-
 ‘ fore the Assembly ; alledging that it could not be a Free Assembly
 ‘ where there was any prelimitation, either of the Chusers, or of those
 ‘ to be chosen, or of any things to be treated of in the Assembly, but
 ‘ that all things must be discussed upon the place, else the Assembly
 ‘ could not be free : but whether you your selves have not violated
 ‘ that which you call Freedom, let any Man judge ; for besides those
 ‘ Instructions, which it may be are not come to our knowledge, we
 ‘ have seen, and offer now to produce, four several Papers of Instru-
 ‘ ctions sent from them, (whom you call the *Tables*) containing all of
 ‘ them Prelimitations, and such as are not only repugnant to that
 ‘ which you call the Freedom, but to that which is indeed the Free-
 ‘ dom of an Assembly. Two of these Papers were such as you were
 ‘ contented should be communicated to all your Associates ; to wit,
 ‘ that larger Paper sent abroad to all Presbyteries, immediately after his
 ‘ Majesty’s indiction of the Assembly ; and that lesser Paper for your
 ‘ meeting first at *Edinburgh*, then at *Glasgow*, some days before the As-
 ‘ sembly ; which Paper gave order for the chusing of Assessors, and
 ‘ divers other Particulars : But your other two Papers of Secret In-
 ‘ structions were directed, one of them only to one Minister of every
 ‘ Presbytery, to be communicated by him as he should see cause, but
 ‘ to be quite concealed from the rest of the Ministers ; the other Pa-
 ‘ per was directed only to one Lay-Elder of every Presbytery, to
 ‘ be communicated by him as he should see cause, to be quite con-
 ‘ cealed from all others : In both which Papers are contained such
 ‘ Directions, which being followed as they were, have quite bani-
 ‘ shed all Freedom from this Assembly ; as shall appear by reading
 ‘ the Papers themselves.

These he caused to be read, but they were disowned by the Mem-
 bers of the Assembly ; and they said, *They might have bin the private
 Opinions of some, but did infer no prelimitation on the Assembly.* To
 which the Marquess answered, That all the Elections being ordered
 according to these, was a clear proof they were sent by an Authority
 which all feared to disobey. And after that he told, that for many
 months the orders of the *Tables* had bin obeyed by all, but he would
 now make a Trial what Obedience they would give to the King’s
 Command ; and protested, That one of the chief Reasons that mo-
 ved him to dissolve this Assembly, was, to deliver the Ministers from
 the Tyranny of Lay-Elders, who (if not suppressed) would (as they
 were now designing the ruin of Episcopal Power) prove not only
 Ruling, but Over-ruling Elders ; so in his Majesty’s Name he dis-
 solved the Assembly, and discharged their further Proceedings un-
 der pain of Treason.

Mr. *Henderson*, and the Earl of *Rothes* answer’d him, That *they
 were sorry he left them, but their Consciences bore them witness, they
 had hitherto done nothing amiss, and therefore would not desert the
 Work of God ; protesting much of their Duty and Obedience to the
 King in its due Line and Subordination.*

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The Marquess presently went out and called a new Council, to whom he imparted his Mind: But from the Council the Earl of *Argyle* withdrew, and fully cleared all Jealousies about him; for he told the Marquess in plain Language, *He would take the Covenant, and own the Assembly*: but most of the Council seemed satisfied with the Marquess his Carriage in the Assembly; yet the Marquess durst not offer to them the Proclamation for dissolving the Assembly to be signed in Council for fear of refusal, not having tried them all in it before-hand; but the next morning he got them to sign it, and then he sent it to the Market-Cross at *Glasgow* to be proclaimed, where it met with a Protestation; both which do follow.

CHARLES by the Grace of God, King of *Scotland, England, France, and Ireland*, Defender of the Faith. To all Our Lovits, Heraulds, Pursevents, Our Sheriffs in that part conjunctly and severally specially constitute, Greeting.

I Dialmickle as out of the Roial and Fatherly Care which We have had of the Good and Peace of this Our Ancient and Native Kingdom; having taken into our serious Consideration all such things as might have given contentment to our Good and Loyal Subjects: And to this end had discharged, by our Proclamation, the Service-Book, Book of Canons, and High-Commission; freed and liberate all Men from the practising of the Five Articles, made all our Subjects, both Ecclesiastical and Civil, liable to the Censure of Parliament, General Assembly, or any other Judicatory competent, according to the nature and quality of the Offence: And for the free entry of Ministers, that no other Oath be administered unto them, than that which is contained in the Act of Parliament, had declared all by-gone Disorders absolutely forgotten and forgiven: And for the more full and clear extirpating all ground and occasion of fears of Innovation of Religion, We had commanded the Confession of Faith, and Band for maintenance thereof, and of Authority in defence of the same, subscribed by our dear Father and his household, in Anno 1580, to be renewed and subscribed again by our Subjects here: like-as for settling of a perfect Peace in the Church and Common-Wealth of this Kingdom, We caused indit a free General Assembly to be holden at *Glasgow* the 21 of this Instant, and thereafter a Parliament in May, 1639. By which clement dealing, We looked assuredly to have reduced our Subjects to their former quiet Behaviour, and dutiful Carriage, whereto they are bound by the Word of God, and Laws, both National and Municipal, to Us their Native and Sovereign Prince. And albeit the wished Effects did not follow, but on the contrary, by Our so gracious procedure they were rather emboldened, not only to continue in their stubborn and unlawful ways, but also daily add to their former procedures, acts of Neglect and contempt of Authority, as evidently appeared by open opposition of Our just and religious Pleasure and Command, exprest in our last Proclamation anent the discharge of the Service-Book, Book of Canons, High-Commission, &c. protesting against the

the same, and striving by many indirect means to withdraw the hearts of our good People, not only from a hearty acknowledgment of Our gracious dealing with them, but also from the due Obedience to those Our just and religious Commands, notwithstanding We had bin formerly so oft petitioned by themselves for the same, by their daily and hourly guarding and watching about our Castle of Edinburgh, suffering nothing to be imported therein but at their discretion; and openly stopping and impeding any importation of Ammunition, or other necessities whatsoever, to any other of our Houses within that Kingdom: denying to Us their Sovereign Lord that liberty and freedom which the meanest of them assume to themselves, (an Act without precedent or example in the Christian World) by making of Convocations and Council-Tables of Nobility, Gentry, Burrows, and Ministers, within the City of Edinburgh; where, not regarding the Laws of the Kingdom, they, without Warrant of Authority, Convene, Assemble, and treat upon Matters, as well Ecclesiastical as Civil; send their Injunctions and Directions throughout the Country to their Subordinate Tables, and other under-Ministers appointed by them for that effect. And under colour and pretext of Religion, exercising an unwarranted and unbounded Liberty, require Obedience to their illegal and unlawful Procedures and Directions, to the great and seen prejudice of Authority, and lawful Monarchical Government. And notwithstanding it was evidently manifest, by the illegal and informal Course taken in the Election of their Commissioners for the Assembly, whereof some are under the censure of this Church, some under the censure of the Church of Ireland, and some long since banished for open and avowed teaching against Monarchy; others of them suspended, and some admitted to the Ministry, contrary to the Form prescribed by the Laws of this Kingdom; others of them a long time since denounced Rebels, and put to the Horne, who by all Law and unviolable custom and practice of this Kingdom, are, and ever have bin incapable, either to pursue, or defend, before any Judicatory, far less to be Judges themselves; some of them confined, and all of them by Oath and Subscription bound to the overthrow of Episcopacy: And by this and other under-hand working, and private Informations and persuasions, have given just ground of suspicion of their partiality herein, and so made themselves unfit Judges of what concerneth Episcopacy. And also it was sufficiently cleared by the peremptory and illegal Procedures of the Presbyteries, who at their own hand, without order of Law, and without due form of process, thrust out the Moderators lawfully established, and placed others, whom they found most inclinable to their turbulent Humours; associate to themselves for the chusing the said Commissioners for the Assembly, a Laick Elder out of each Paroch; who being in most places equal, if not more in number than the Ministry, made choice both of the Ministers who should be Commissioners from the Presbyteries, as also of a Ruling-Elder; being directed more therein by the Warrants from the foresaid pretended Tables, than by their own Judgments; as appears by the several private Instructions sent from them, far contrary to the Laws of the Country, and lovable custom of the Church: by which doings it is too manifest, that no calm nor peaceable procedure or course could have bin expected from this Assembly,

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Assembly, for settling the present Disorders and Distractions: Yet We were pleased herein in some sort to blindfold our own Judgment, and over-look the said Disorders, and patiently to attend the meeting of the said Assembly; still hoping that when they were met together, by our Commissioner his presence, and assistance of such other well-disposed Subjects who were to be there, and by their own seeing the real performance of all that was promised by our last Proclamation, they should have bin induced to return to their due Obedience of Subjects. But perceiving that their seditious Disposition still increases, by their repairing to the said Assembly with great Bands and Troops of Men, all boddin in fear of War, with Guns and Pistols, contrary to the Laws of this Kingdom, custom observed in all Assemblies, and in high contempt of our last Proclamation at Edinburgh the 16th of this Instant. As also by their peremptory refusing of our Assessors authorized by Us, (although fewer in number than our dearest Father was in use to have at divers Assemblies) the power of Voting in this Assembly, as formerly they have done in other Assemblies; and by their partial, unjust, and unchristian refusing, and not suffering to be read the Reasons and Arguments given in by the Bishops, and their Adherents, to our Commissioner, why the Assembly ought not to proceed to the election of a Moderator with them, neither yet to the admitting of any of the said Commissioners from Presbyteries, before they were heard to object against the same, though earnestly required by our Commissioner in our Name. And notwithstanding that our Commissioner under his hand, by Warrant from Us, gave in a sufficient Declaration of all that was contained in our late Proclamation and Declaration, the same bearing likewise our Pleasure of the Registration of the same in the Books of the Assembly, for the full assurance of the True Religion to all our good Subjects: And yet not resting satisfied therewith, lest the continuance of their meeting together might produce other the like dangerous Acts, derogatory to Royal Authority, We have thought good, for preventing thereof, and for the whole Causes and Reasons above-mentioned, and divers others importing the True Monarchical Government of this Estate, to dissolve and break up the said Assembly. And therefore,

Our Will is, That we do discharge and inhibit all and whatsoever pretended Commissioners, and other Members of the said pretended Assembly, of all further meeting and convening, treating and concluding any thing belonging to the said Assembly, under the pain of Treason; declaring all and whatsoever that they shall happen to do in any pretended Meeting thereafter, to be null, of no strength, force nor effect, with all that may follow thereupon: prohibiting and discharging all our Lieges to give Obedience thereto, and declaring them, and every one of them, free and exempt from the same, and of all hazard that may ensue for not obeying thereof. And for the effect, We command and charge all the foresaid pretended Commissioners, and other Members of the said Assembly, to depart forth of this City of Glasgow within the space of 24 hours after the publication hereof, and to repair home to their own Houses; or that they go about their own private Affairs in a quiet manner. With special provision always, That the foresaid Declaration, given in under our Commissioner's hand, with all therein contained, shall notwithstanding

ing hereof stand full, firm, and sure to all our good Subjects in all time coming, for the full assurance to them of the True Religion. And our Will is, and We command and charge, That incontinent these our Letters seen, ye pass, and make publication hereof by open Proclamation, at the Market-Cross of Glasgow, and other places needful, where through none pretend ignorance of the same.

14 Caroli.

Given under our Signet at Glasgow, the 29th of November, and of Our Reign the 14th Year.

Sic Subscribitur.

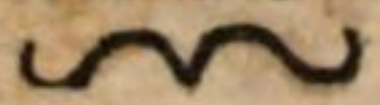
Hamilton, Traquair, Roxborough, Murray, Linlithgow, Perth, Kinghorne, Tullibardin, Haddington, Galloway, Annandail, Lauderdale, Kinnoull, Dumfreis, Southesk, Belhaven, Angus, Dalryel, J. Hay, W. Elphinston, Ja. Carmichael, J. Hamilton.

The Protestation of the General Assembly of the Church of Scotland, &c. made in the High Kirk, and at the Market-Cross of Glasgow, Nov. 29. 1638.

WE Commissioners from Presbyteries, Burghs, and Universities, now convened in a full and free Assembly of the Church of Scotland, indicted by his Majesty, and gathered together in the Name of the Lord Jesus Christ, the only Head and Monarch of his own Church; And we Noblemen, Barons, Gentlemen, Ministers, Burgeses, and Commons, Subscribers of the Confession of Faith, make it known, That where we his Majesty's Loial Subjects, of all Degrees, considering and taking to heart the many and great Innovations and Corruptions, lately by the Prelates and their Adherents, intruded into the Doctrine, Worship, and Discipline of this Church, which had bin before in great purity, to our unspeakable comfort, established amongst us, were moved to present many earnest Desires, and humble Supplications to his Sacred Majesty for granting a free General Assembly, as the only legal and ready mean to try these Innovations, to purge out the Corruptions, and settle the Order of the Church for the Good of Religion, the Honour of the King, and the Comfort and Peace of the Kirk and Kingdom. It pleased his Gracious Majesty, out of his Roial Bounty, to direct unto this Kingdom, the Noble and Potent Lord, James, Marquess of Hamilton, with Commission to hear and redress the just Grievances of the good Subjects; who by many Petitions, and frequent Conferences, being fully informed of the absolute necessity of a free General Assembly, as the only Judicatory which had Power to remedy those Evils, was pleased to undergo the pains of a Voyage to England, for presenting the pitiful condition of our Church to his Sacred Majesty.

And the said Commissioner his Grace, returned again in August last, with Power to Indict an Assembly, but with the condition of such Prelimitations, as did both destroy, and could no ways cure the present Diseases of this Church; which was made so clearly apparent

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parent to his Grace, that for satisfying the reasonable Desire of the Subjects, groaning under the weariness and prejudices of long-some Attendance; He was again pleased to undertake another Journey to his Majesty, and promised to endeavour to obtain a free General Assembly, without any Prelimitation, either of the Constitution and Members, or Matters to be treated, or Manner and Order of Proceeding; so that if any Question should arise concerning these Particulars, the same should be cognosed, judged, and determined by the Assembly as the only Judge competent. And accordingly by Warrant from our Sacred Sovereign, returned to this Kingdom, and in *September* last, caused indict a free General Assembly to be holden at *Glasgow*, the 21st of *November* instant, to the unspeakable Joy of all good Subjects, and Christian Hearts, who thereby did expect the perfect satisfaction of their long Expectations, and the final Remedy of their pressing Grievances. But these Hopes were soon blasted: for albeit the Assembly did meet and begin at the appointed day, and hath hitherto continued, still assisted with his Grace's Personal presence; yet his Grace hath never allowed any Freedom to the Assembly, competent to it, to the Word of God, Acts and Practice of this Church, and his Majesty's Indiction; but hath laboured to restrain the same, by protesting against all the Acts made therein, and against the Constitution thereof by such Members, as by all Law, Reason, and Custom of this Church, were ever admitted in our Free Assemblies, and by denying his approbation to the things propounded and concluded, though most clear, customable, and uncontroverted.

And now since his Grace, after the presenting and reading of his own *Commission*, from our Sacred Sovereign, and after his seeing all our *Commissions* from Presbyteries, and Burrows, produced and examined, and the Assembly constitute of all the Members by unanimous consent, doth now, to our greater Grief, without any just cause or occasion offered by us, unexpectedly discharges us from any further meeting or proceeding in this Assembly, under the pain of *Treason*; and after seven days sitting, declare all Acts made, or hereafter to be made in this Assembly, to be of no force nor strength; and that for such Causes as are either expressed in his Majesty's former Proclamations, (and so are answered in our former Protestations) or set down in the Declinator and Protestation presented in the Name of the Prelates, (which are fully cleared in our Answer made thereto) or else were long since propounded by the Commissioner his Grace in his eleven Articles or Demands sent unto us, before the indiction of the Assembly (and so were satisfied by our Answers, which his Grace acknowledged, by promising, after the receipt thereof, to procure a free General Assembly, and with power to determine upon all Questions anent the Members, Manner, and Matter thereof); all which, for avoiding tediousness, we here repeat, or otherwise the said Causes alleged by the Commissioner were propounded by his Grace in the Assembly: such as, first, That the Assembly refused to read the Declinator, and Protestation exhibited by the Prelates; which nevertheless was publicly read and considered by the Assembly, immediately after the Election of a Moderator, and constitution of the Members; before the which there was no Assembly established, to whom the same could have bin read.

Next

Next, That Ruling-Elders were permitted to have Voices in the Election of Commissioners from Presbyteries, which was known to his Grace before the indiction and meeting of the Assembly, and is so agreeable to the Acts and Practice of this Church, inviolably observed before the late times of Corruption, that not one of the Assembly doubted thereof; to whom by the indiction and promise of a free Assembly, the determination of that Question, anent the Members constituent, properly belonged.

And lastly, That the Voices of the six Assessors who did sit with his Grace, were not asked and numbred, which we could not perceive to be any just cause of Offence, since after 39 National Assemblies of this Reformed Church, where neither the King's Majesty, nor any in his Name was present, at the humble and earnest desire of the Assembly, his Majesty graciously vouchsafed his presence, either in his own Roial Person, or by a Commissioner, not for voting or multiplying of Voices, but as Princes and Emperors of old, in a princely manner, to countenance that Meeting, and to preside in it for external Order; and if we had bin honoured with his Majesty's Personal Presence, his Majesty (according to the practice of King James of Blessed Memory) would have only given his own Judgment in voting of Matters, and would not have called others who had not bin cloathed with Commission from the Church, to carry things by plurality of Voices.

Therefore in conscience of our Duty to God and his Truth, the King and his Honour, the Church and her Liberties, this Kingdom and her Peace, this Assembly and her Freedom, to our Selves and our Safety, to our Posterity, Persons, and Estates, we profess, with sorrowful and heavy, but Loial Hearts, That we cannot dissolve this Assembly for the Reasons following.

1. For the Reasons already printed anent the necessity of convening a General Assembly, which are now more strong in this case, seeing the Assembly was already indicted by his Majesty's Authority, did convene, and is fully constitute in all the Members thereof, according to the Word of God, and Discipline of this Church, in the presence and audience of his Majesty's Commissioner, who hath really acknowledged the same, by assisting therein seven days; and exhibition of his Majesty's Roial Declaration to be Registrate in the Books of this Assembly, which accordingly is done.

2. For Reasons contained in the former Protestations, made in the Name of the Noblemen, Barons, Burgessees, Ministers, and Commons, whereunto we do now judicially adhere, as also untot he *Confession of Faith and Covenant*, subscribed and sworn by the Body of this Kingdom.

3. Because, as we are obliged by the Application and Explication subjoined, necessarily to the *Confession of Faith* subscribed by us; So the King's Majesty, and his Commissioner and Privy-Council, have urged many of this Kingdom to subscribe the *Confession of Faith* made in Anno 1580, and 1590, and so to return to the Doctrine and Discipline of this Church as it was then professed: But it is clear by the Doctrine and Discipline of this Church, contained in the Book of Policy then registrate in the Books of Assembly, and subscribed by the Presbyteries of this Church, That it was most unlawful in it self, and prejudicial to these Priviledges which Christ in his Word hath

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hath left to his Church, to dissolve or break up the Assembly of this Church, or to stop and stay their Proceedings, in constitution of Acts for the welfare of the Church, or execution of Discipline against Offenders; and so to make it appear, that Religion and Church-Government should depend absolutely upon the Pleasure of the Prince.

4. 'Because there is no ground of pretence, either by Act of Assembly or Parliament, or any preceding practice, whereby the King's Majesty may lawfully dissolve the General Assembly of the Church of *Scotland*, far less his Majesty's Commissioner, who by his Commission hath Power to indict and keep, *secundum legem & praxim*; but upon the contrary, his Majesty's Prerogative Roial, is declared by Act of Parliament to be no ways prejudicial to the Privileges and Liberties which God hath granted to the Spiritual Office-bearers, and Meetings of this his Church; which are most frequently ratified in Parliament, and especially in the last Parliament holden by his Majesty himself: Which Privileges and Liberties of the Church, his Majesty will never diminish or infringe, being bound to maintain the same in integrity, by solemn Oath given at his Roial Coronation in this Kingdom.

5. 'The Assemblies of this Church have still enjoined this freedom of uninterrupted sitting, without or notwithstanding any *contramand*, as is evident by all the Records thereof; and in special, by the General Assembly holden in *Anno 1582*; which being charged by Letters of Horning, by the King's Majesty, his Commissioner and Council, to stay their Process against Mr. *Robert Montgomery*, pretended Bishop of *Glasgow*, or otherwise to dissolve and rise; did, notwithstanding, shew their Liberty and Freedom, by continuing and sitting still, and without any stay, going on in the Process against the said Mr. *Robert* to the final end thereof: And thereafter, by Letter to his Majesty, did shew clearly how far his Majesty had bin uninformed, and upon misinformation, prejudged the Prerogative of *Jesus Christ*, and the Liberties of the Church; and did Enact and Ordain, That none should procure any such Warrant or Charge, upon the pain of Excommunication.

6. 'Because now to dissolve, after so many Supplications and Complaints, after so many reiterated Promises, after our long attendance and expectation, after so many References of Processes from Presbyteries, after the publick indiction of the Assembly, and the solemn Fast appointed for the same, after frequent convention, formal constitution of the Assembly in all the Members thereof, and seven days sitting, were by this Act to offend God, contemn the Subjects Petitions, deceive many of their conceived hopes of redress of the Calamities of the Church and Kingdom, multiply the Combustions of this Church, and make every Man despair hereafter ever to see Religion established, Innovations removed, the Subjects Complaint respected, or the Offenders punished with consent of Authority; and so by casting the Church loose and desolate, would abandon both to ruin.

7. 'It is most necessary to continue this Assembly for preventing the Prejudices that may ensue upon the pretence of *two Covenants*, whereas indeed there is but one; that first subscribed in 1580, and 1590, being a National Covenant and Oath to God, which is
late

‘ lately renewed by Us with that necessary Explanation, which the
 ‘ Corruptions introduced since that time, contrary to the same, infor-
 ‘ ced. Which is also acknowledged by the Acts of Council in *Septem-*
 ‘ *ber* last, declaring the same to be subscribed, as it was meant the
 ‘ time of the first Subscription: And therefore for removing that
 ‘ shame, and all Prejudices that may follow upon the shew of two
 ‘ different *Covenants* and *Confessions of Faith* in one Nation, the Assem-
 ‘ bly cannot dissolve, before it try, find and determine, that both
 ‘ these *Covenants* are but one and the self-same Covenant. The lat-
 ‘ ter renewed by us, agreeing to the true genuine sense and meaning
 ‘ of the first, as it was subscribed in *Anno* 1580.

‘ For these, and many other Reasons, we the Members of this
 ‘ Assembly, in our own Name, and in the Name of the Kirk of
 ‘ *Scotland*, whom we represent, and we Noblemen, Barons, Gen-
 ‘ tlemen, Ministers, Burgesses, and Commons, before mentioned,
 ‘ do solemnly declare, in the presence of the Everliving God, and
 ‘ before all Men; and protest,

1. ‘ That our Thoughts are not guilty of any thing which is not
 ‘ incumbent to us, as good Christians towards God, and Loial Sub-
 ‘ jects towards our Sacred Sovereign.

2. ‘ That all the *Protestations*, general and particular, proponed or
 ‘ to be proponed by the Commissioner his Grace, or the Prelates and
 ‘ their Adherents, may be presently discussed before this General As-
 ‘ sembly, being the highest Ecclesiastical Judicatory of this Kingdom;
 ‘ and that his Grace depart not till the same be done.

3. ‘ That the Lord Commissioner depart not till this Assembly do
 ‘ fully settle the solid Peace of this Church, cognoscing and examin-
 ‘ ing the Corruptions introduced upon the Doctrine and Discipline
 ‘ thereof: And for attaining hereof, and removing all just Exceptions
 ‘ which may be taken at our Proceedings, we attest God, the Searcher
 ‘ of all Hearts, that our Intentions and whole Proceedings in this pre-
 ‘ sent Assembly, have bin, are, and shall be, according to the Word
 ‘ of God, the Laws and Constitutions of this Church, the Confession of
 ‘ Faith, our National Oath, and that measure of Light which God the
 ‘ Father of Light shall grant Us, and that in the sincerity of our
 ‘ Hearts, without any preoccupation or passion.

4. ‘ That if the Commissioner his Grace depart, and leave this
 ‘ Church and Kingdom in this present disorder, and discharge this As-
 ‘ sembly, That it is both lawful and necessary for us to sit still and con-
 ‘ tinue in keeping this present Assembly indicted by his Majesty, till
 ‘ we have tried, judged, censured, all the by-gone Evils, and the In-
 ‘ troducers, and provide a solid course for continuing God’s Truth
 ‘ in this Land with Purity and Liberty, according to his Word, our
 ‘ Oath, and Confession of Faith, and the lawful Constitutions of this
 ‘ Church; and that with the Grace of God, we and every one of us
 ‘ adhering thereunto, shall sit still and continue in this Assembly, till
 ‘ after the final settling and conclusion of all Matters, it be dissolved
 ‘ by common consent of all the Members thereof.

5. ‘ That this Assembly is and should be esteemed and obeyed as a
 ‘ most lawful, full and free General Assembly of this Kingdom; and
 ‘ that all Acts, Sentences, Constitutions, Censures, and Proceedings
 ‘ of this Assembly, are, and should be reputed, obeyed, and obser-
 ‘ ved by all the Subjects of this Kingdom, and Members of this

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Church, as the Actions, Sentences, Constitutions, Censures, and Proceedings of a full and free General Assembly of this Church of *Scotland*, and to have all ready execution under the Ecclesiastical Pains contained, or to be contained therein, and conform thereto in all Points.

6. That whatsoever Inconveniencies fall out, by impeding, molesting, or staying the free Meeting, Sitting, Reasoning, or Concluding of this present Assembly, in Matters belonging to their Judicatory, by the Word of God, Laws and Practice of this Church, and the Confession of Faith; or in the observing and obeying the Acts, Ordinances, and Conclusions thereof, or Execution to follow thereupon, that the same be not imputed unto us or any of us, who most ardently desire the concurrence of his Majesty's Commissioner to this lawful Assembly: But upon the contrary, That the Prelates and their Adherents, who have protested and declined this present Assembly, in Conscience of their own guiltiness, not daring to abide any legal Trial; and by their misinformation have moved the Commissioner his Grace to depart and discharge this Assembly; be esteemed, reputed, and holden the Disturbers of this Peace, and Overthrowers of the Liberties of the Church, and guilty of all the Evils which shall follow hereupon, and condignly censured according to the greatness of their Fault, and Acts of the Church and Realm. And to this end we again and again do by these Presents cite and summon them, and every one of them, to compare before this present General Assembly to answer to the Premises, and to give in their Reasons, Defences, and Answers against the Complaints given in, or to be given in against them, and to hear Probation led, and Sentence pronounced against them, and conform to our former Citations, and according to Justice, with certification as Effects; like as by these Presents we summon and cite all those of his Majesty's Council, or any other who have procured, consented, subscribed, or ratified this present Proclamation to be responsible to his Majesty, and three Estates of Parliament, for their counsel given in this Matter, so highly importing his Majesty, and the whole Realm, conform to the 12 Act King *James*, 4 Parliam. 2. and protest for remedy of Law against them, and every one of them.

7. And lastly, We protest that as we adhere to the former Protestations, all and every one of them, made in the Name of the Noblemen, Barons, Gentlemen, Ministers, Burgessees, and Commons; so seeing we are surprized by the Commissioner his Grace's sudden departure, far contrary to his Majesty's Indiction, and our Expectation, we may extend this our Protestation, and add more reasons thereunto in greater length and number, whereby we may fully clear, before God and Man, the equity of our Intentions, and lawfulness of our Proceedings: And upon the whole Premises, the aforesaid Persons, for themselves, and in name aforesaid, asked Instruments.

This was done in the High Church of *Glasgow*, in publick Audience of the Assembly, begun in presence of the Commissioner his Grace, who removed and refused to hear the same to the end, the 28th day of *November*, and upon the Market-Cross of *Glasgow* the 29th day of the said month, the Year of God 1638 respective.

After

After the Marques had dissolved the Assembly, the Council resolved to write to his Majesty a Letter of Thanks for those gracious Proffers which he by his Commissioner had made at the Assembly, which they did as followeth, dated the 29th of November.

Most Sacred Sovereign,

IN Obedience to your Majesty's Roial Commands, we have attended your Majesty's Commissioner here at Glasgou, since the 17th of this Instant, and according to our bound Duty in so exigent Occasion, have not bin wanting, with our humble and best Advices; and although we do admit the particular Relation of what past to his Graces self as best known to him, yet we cannot for Truths-sake be so silent, as not to acknowledge to your Majesty, that never Servant did with more Industry, Care, Judgment, and Patience, go about the discharge of so great a Trust: And albeit the success hath not answered his desires, neither yet his extraordinary pains, and (as we may confidently affirm) most dextrous and advised Courses taken to compass the just Command of so gracious a King; yet his deserving herein merits to be remembred to Posterity. And since your Majesty hath bin pleased to renew to us your former Act of Grace, expressed in your Proclamation and Declaration anent the maintenance of the True Religion, and we in the defence and profession thereof; We do all in humility and hearty acknowledgement of so great Goodness, return to your Majesty the offer of our Lives and Fortunes in defence of your Sacred Person, and maintenance of your Roial Authority: And shall in all our Actions approve our selves your Majesty's most loial Subjects and humble Servants.

Sic Subscribitur,

Traquair, Roxborough, Marre, Murray, Lithgow, Perth, Wigtoun, Kinghorn, Tullibardin, Haddington, Galloway, Anandail, Lauderdale, Kinnoul, Dumfreis, Southesk, Angus, Elphinston, Napier, Dalziel, Hay, W. Elphinston, Ja. Carmichael, Hamilton, Blackhall.

From Glasgou, Novemb. 29. 1638.

Suddenly after which the Marques received this ensuing Letter from the Arch-Bishop of Canterbury, dated at Lambeth, December the third, 1638.

My very good Lord,

I Received your Lordship's Letters of November 27. they came safe to me on December 2, after eight at Night. I was glad to see them short; but their shortness is abundantly supplied by the length of two Letters, one from the Lord Rofs, and the other from the Dean. They have between them made their Word good to your Lordship, for they have sent me all the Passages, from the beginning of the Assembly, to the time of the date of their Letters: And this I will be bold to say, Never were there more gross Absurdities, nor half so many in

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so short a time, committed in any publick Meeting; and for a National Assembly, never did the Church of Christ see the like.

Besides his Majesty's Service in General, that Church is much beholden to you, and so are the Bishops in their Persons and Calling; and heartily sorry I am, that the People are so beyond your expression furious, that you think it fit to send the two Bishops from Glasgow to Hamilton; and much more, that you should doubt your own safety. My Lord, God bless your Grace with Life and Health to see this Business at a good end; for certainly, as I see the face of things now, there will very much depend upon it, and more than I think fit to express in Letters; nay, perhaps, more than I can well express if I would.

I am as sorry as your Grace can be, that the King's Preparations can make no more hast; I hope you think (for truth it is) I have called upon his Majesty, and, by his command, upon some others, to hasten all that may be, and more than this I cannot do; but I am glad to read in your Letters, that you have written at length to his Majesty, that you may receive from himself a punctual Answer to all necessary Particulars; and I presently going to him to write largely to you, that you may not be in the dark for any thing.

But, my Lord, to meet with it again in your Letters, that you cannot tell whether this may be your last Letter, and that therefore you have disclosed the very thoughts of your heart, doth mightily trouble me. But I trust in God he will preserve you, and by your great Patience, Wisdom, and Industry, set his Majesty's Affairs (to your great honour) in a right posture once again; which if I might live to see, I would be glad to sing my Nunc dimittis.

I pray (my Lord) accept my thanks for the poor Clergie there, and particularly for the Bishop of Ross, who protests himself most infinitely obliged to you.

I heartily pray your Lordship to thank both the Bishop of Ross and the Dean for their kind Letters, and the full account they have given me; but there is no particular that requires an answer in either of them, saving that I find in the Dean's Letter, that Mr. Alex. Henderson, who went all this while for a quiet and well-spirited Man, hath shewed himself a most violent and passionate Man, and a Moderator without Moderation. Truly (my Lord) never did I see any Man of that humour yet, but he was deep dyed in some Violence or other; and it would have bin a wonder to me if Henderson had held free. Good, my Lord, since you are good in the Active part, in the commixture of Wisdom and Patience, hold it out till the People may see the violence and injustice of them that would be their Leaders, and suffer not a Rupture till there be no Remedy. God bless you in all your ways, which is the daily Prayer of

Lambeth, Dec. 3.
1638.

Your Lordships most faithful Friend,
and humble Servant,

W. CANT.

He also received another Letter from the Arch-Bishop, dated the 7th of December, to the effect following.

My

My very good Lord,

THis day I have received your other Letter, with three Papers, viz. That which shews you have kept within your Instructions, the Copy of the Proclamation which dissolves the Assembly, and a Copy of the Councils Letter the King; both which his Majesty takes to be very good Service done for him, and commands me to give your Grace thanks in his Name, which I am very glad to do, and I do it heartily.

I have done, and do daily call upon his Majesty for his Preparations; he protests he makes all the hast he can, and I believe him; but the jealousies of giving the Covenanters umbrage too soon, have made Preparations here so late.

After the King's Commissioner's departure from Glasgow, they still continued the Assembly, notwithstanding the King's Dissolution of it by Proclamation under pain of *Treason*; and then immediately the Earl of *Argile* began to declare himself openly the Head of it, and adjoined himself presently to them, and sat continually with them in the Assembly, although he were no Member of it, but sat only as their chief Director and Countenancer.

The Assembly continue sitting at Glasgow.

In a short space of time they declared six General Assemblies to be null and void; they condemned all the *Armenian* Tenents, without defining what those Tenents were: They deprived the Arch-Bishop of *St. Andrews*, the Bishop of *Galloway* and *Brechin*; They declared Episcopal Government to be inconsistent with the Law and Church of the Kingdom of *Scotland*, and so abolished it for ever, though it did then, and still stands (as the King saith in his Declaration) confirmed by many Acts both of Parliaments and Assemblies.

Here followeth one of the *Sentences* given in against Mr. *John Gutbrie*, pretended Bishop of *Murray*; Mr. *John Graham*, pretended Bishop of *Orkney*; Mr. *James Fairly*, pretended Bishop of *Lismoir*; Mr. *Neil Campbell*, pretended Bishop of the *Isles*, viz.

THE General Assembly having heard the Libels and Complaints given in against the foresaid pretended Bishops, to the Presbytery of *Edinburgh*, and sundry Presbyteries within their Diocess, and by the said Presbyteries referred to this Assembly to be tried; The said pretended Bishops being lawfully cited, oftentimes called, and not compearing, proceeded to the cognition of the Complaints and Libels against them; and finding them guilty of the breach of the Cautions agreed upon in the Assembly at *Montrose*, Anno 1600, for restricting of the Minister-Voter in Parliament, from incroaching upon the Liberties and Jurisdictions of the Kirk, which was set down with certification of Deposition, Infamy, and Excommunication; and especially for receiving Consecration to the Office of Episcopacy, condemned by the Confession of Faith, and Acts of this Kirk, as having no Warrant nor Fundament in the Word of God; but by virtue of this usurped Power, and Power of the High-Commission, pressing the Kirk with Novations in the Worship of God; and for their refusal to underly the trial of the reigning slander of sundry other gross Transgressions and Offences laid to their Charge: Therefore

Sentence pronounced against divers Bishops.

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‘Therefore the Assembly moved with Zeal to the Glory of God, and
 ‘purging of this Kirk, ordains the said pretended Bishops to be de-
 ‘posed, and by these Presents doth depose them, not only of the Of-
 ‘fice of Commissioner to Vote in Parliament, Council, or Conven-
 ‘tion in Name of the Kirk, but also of all Functions, whether of
 ‘Pretended, Episcopal, or Ministerial Calling; and likewise in case
 ‘they acknowledge not this Assembly, reverence not the Constitution
 ‘thereof, and obey not the *Sentence*, and make not their Repentance
 ‘conform to the Order prescribed by this Assembly, ordains them to
 ‘be Excommunicated, and declared to be of these whom Christ com-
 ‘mandeth to be holden by all and every one of the Faithful, as *Eth-*
 ‘*nicks* and *Publicans*, and the Sentence of Excommunication to be
 ‘pronounced upon their refusal, in the Kirks appointed by any of
 ‘these who are particularly named to have the charge of trying their
 ‘Repentance or Impenitency; and that the execution of this *Sentence*
 ‘be intimate in all the Kirks within this Realm, by the Pastors of
 ‘every particular Congregation, as they will be answerable to their
 ‘Presbyteries or Synods, or the next General Assembly, in case of
 ‘negligence of the Presbyteries and Synods.

*The Declinator and Protestation of the Arch-Bishops and Bi-
 shops of the Church of Scotland, and other their Adhe-
 rents within that Kingdom, against the pretended General
 Assembly holden at Glasgow, Novemb. 21. 1638.*

The Arch-
 Bishops and
 Bishops Prote-
 station.

‘WE Arch-Bishops, Bishops, and other under-subscribers for our
 ‘selves, and in the name and behalf of the Church of *Scot-*
 ‘*land*. Whereas it hath pleased the King’s Majesty to indict a General
 ‘Assembly of the Church to be kept at *Glasgow* the 21st of *Novem-*
 ‘*ber* 1638, for settling and composing the Distractions of the same;
 ‘first, do acknowledge and profess, That a General Assembly, lawfully
 ‘called, and orderly convened, is a most necessary and effectual mean
 ‘for removing these Evils, wherewith the said Church is infested, and
 ‘for settling that Order which becometh the House of God, and that
 ‘we wish nothing more than a meeting of a peaceable and orderly As-
 ‘sembly to that effect. Secondly, We acknowledge and profess, as
 ‘becometh good Christians and faithful Subjects, that his Majesty hath
 ‘Authority, by his Prerogative Roial, to call Assemblies, as is ac-
 ‘knowledged by the Assembly at *Glasgow* 1610, and Parliament 1612;
 ‘and that it is not lawful to convene without his Majesty’s consent
 ‘and approbation, except we will put our selves in danger to be cal-
 ‘led in question for Sedition.

‘Yet nevertheless, In sundry respects we cannot but esteem this
 ‘Meeting at *Glasgow* most unlawful and disorderly, and their Pro-
 ‘ceedings void and null in Law, for these Causes and Reasons fol-
 ‘lowing.

‘First, Before his Majesty’s Roial Warrant to my Lord Commissio-
 ‘ner’s Grace, to induct a lawful free General Assembly, the usurped
 ‘Authority of the Tables (as they call it) by their Missives and In-
 ‘structions, did give order and direction for all Presbyteries to elect
 ‘and chuse their Commissioners for the Assembly, and for seeking
 ‘God’s

God's Blessing to it, to keep a solemn Fast, Sept. 16. whereas his Majesty's Warrant for indicting that Assembly was not published till the 22^d of that Month; so that they preventing, and not proceeding by Warrant of Royal Authority, the pretended Commissioners being chosen before the Presbyteries were authorized to make Election, cannot be reputed Members of a Lawful Assembly, must not only be indicted by lawful Authority, (as we acknowledge this to be) but also constituted of such Members as are requisite to make up such a Body; for if according to the Indiction, none at all do Convene, or where the Clergy is called, there meet none but Laicks, or more Laicks than of the Clergy, with equal Power to judge and determine; or of such of the Laicks and Clergy as are not lawfully Authorized, or are not capable of that Employment by their Places; or such as are legally disabled to sit and decide in an Assembly of the Church, a Meeting consisting of such Members cannot be thought a Free and Lawful Assembly by that Act of Parliament, *Ja. 6 Par. 3. cap. 46. 1572.* Every Minister who shall pretend to be a Minister of God's Word and Sacraments, is bound to give his assent and subscription to the Articles of Religion, contained in the Acts of our Sovereign Lord's Parliament, and in the presence of the Arch-Bishop, Superintendent or Commissioner of the Province, give his Oath for acknowledging and recognoscing of our Sovereign Lord and his Authority, and bring a Testimonial in Writing thereupon; and openly upon some Sunday, in time of Sermon, or publick Prayers, in the Kirk where he ought to attend, read both the Testimonial and Confession, and of new make the said Oath, within a month after his Admission; under the pain, That every one that shall not do as is above appointed, shall, *ipso facto*, be deprived, and all his Ecclesiastical Promotions and Livings be then vacant, as if he were then naturally dead: And that all inferior Persons, under Prelats, be called before the Arch-Bishops, Bishops, Superintendents, and Commissioners of the Diocess or Province within which they dwell, as the Act bears.

2. All of the Clergy convened to this Assembly, pretend themselves to be Ministers of God's Word and Sacraments; and having Benefices, or other Ecclesiastical Livings, yet nevertheless most of them have never in the presence of the Arch-Bishop, Bishop, Superintendent, or Commissioner of the Diocess or Province, subscribed the Articles of Religion contained in the Acts of Parliament, and given their Oath for acknowledging and recognoscing our Sovereign Lord and his Authority, and brought a Testimonial thereof; and therefore they are, *ipso facto*, deprived, and their Places void, as if they were naturally dead; and consequently having no Place in the Church, nor Function in the Church, cannot be Commissioners to this Assembly: *Hoc maxime attento*, that the said Persons not only have never given their Oath for acknowledging his Majesty's Authority, nor can shew any Testimonial thereupon, as they are bound by the said Act; but also as Subjects having bin comprehended in the Representative Body of this Kingdom, promised to acknowledge, obey, maintain, defend, and advance the Life, Honour, Safety, Dignity, Sovereign Authority, and Prerogative Roial of his Sovereign Majesty, his Heirs and Successors, and priviledges of his Highness's Crown, with their Lives, Lands, and Goods, to the uttermost of their

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‘their Power, constantly and faithfully to withstand all and whatsoever Persons, Powers, and Estates, who shall presume, prease, or intend any-wise to impugn, prejudice, hurt, or impair the same, and never to come in the contrary thereof, directly or indirectly for the time coming, as the Acts of Parliament, *Jac. 6. Parl. 18. Cap. 1. Car. Parl. cap. 1.* do report,

‘And moreover, being obliged at their admission, to give their Oath for performance of this Duty of their Allegiance, and to testify and declare on their Conscience, That the King is the lawful Supreme Governour, as well in Matters Ecclesiastical and Spiritual, as Temporal, and to assist all Jurisdiction, and defend Authority belonging to his Majesty, by Act of Parliament 1612. Yet notwithstanding of the said Bands, Acts, and Promises, whereby the said Persons are so strictly bound to the performance of the Promises, his Majesty having ordained by Act of Council, at *Hally-Rood-House, Septemb. 24. 1638.* and Proclamation following thereupon, *That all his Majesty's Lieges, of whatsoever Estate, Degree, or Quality, whether Ecclesiastical or Temporal, should swear and subscribe the said Confession, together with the General Band, for defending his Majesty's Person and Authority, against all Enemies within this Realm and without,* have not only refused to subscribe the same Band and Confession, but have in their Sermons, and other Speeches, dissuaded, deterred, impeded, and hindred others of Lieges to subscribe the same, publickly protested against the subscription thereof; and thereupon cannot concur or convene lawfully to the making up of the Body of the Assembly of the Kirk, as being deprived and denuded of all Place and Function in the same.

3. ‘A General Assembly was condescended unto, out of his Majesty's gracious Clemency, and pious Disposition, as a Roial Favour to those that should so acknowledge the same, and acquiesce in his gracious Pleasure, and carry themselves peaceably, as Loial and Dutiful Subjects, which the Commissioners directed to this Assembly, supposed to be of the Number that did adhere to the last Protestation made at *Edinburgh, Sept. 1638.* do not so account of and accept, as appears by the said Protestation; whereby they protest that it shall be lawful for them, as at other times, so at this, to assemble themselves, notwithstanding any Impediment or Prorogation to the contrary; as also by continuing their Tables and Meetings, discharged by Authority, refusing to subscribe the Band, according to his Majesty's and Council's Command, for maintaining his Majesty's Roial Person and Authority, protesting against the same, still insisting with the Lieges to subscribe the Band of Mutual Defence against all Persons whatsoever, and remitting nothing of their former Proceedings, whereby his Majesty's Wrath was provoked thereby; they are become in the same state and condition wherein they were before his Majesty's Proclamation and Pardon, and so forfeit the favour of this Assembly, and liberty to be Members thereof; and others of his Majesty's Subjects may justly fear to meet with them in this Convention; for that by Act of Parliament, *James 6. Parl. 15. cap. 31.* Prelacies being declared to be one of the three Estates of the Kingdom; and by the Act of Parliament, *Jac. 6. Parl. 8. cap. 130.* all Persons are discharged to impugn the Dignity and Authority of the three Estates, or any of them in time coming, under pain of
‘Treason.

Treason. And whereas the King by his Proclamation, declares Arch-Bishops and Bishops to have Voices in the *General Assembly*, and calls them to the same for that effect, as constantly they have bin in use in all *Assemblies* where they were present, as appears by many Acts of the *General Assembly*, ordaining them to keep and assist at the same; as in the *Assembly* at *Edinburgh*, Decemb. 15. 1566. at *Edinburgh*, March 6. 1572. at *Edinburgh*, May 10. 1586. and by a Letter written by the *Assembly*, March 6. 1573, to the Regent, earnestly desiring his own, or his Commissioners presence, and the Lords of the Council, and the Bishops at the *Assembly*. They notwithstanding, by the said Protestation, dated Septemb. 22. declared the Arch-Bishops and Bishops to have no Warrant for their Office in this Kirk, to be authorized with no lawful Commission, and to have no Place nor Voice in this *Assembly*: and withal do arrogate to their Meetings a Sovereign Authority, to determine of all Questions and Doubts that may arise, contrary to the freedom of the *Assembly*, whether in Constitution and Members, or in the Matters to be treated, or in Manner and Order of proceeding; which how it doth stand with his Majesty's Supremacy in all Cases, over all Persons, and in all Causes, we leave it to that Judgment whereunto it doth belong, and do call God and Man to Witness, if these be fit Members of an *Assembly*, intended for the Order and Peace of the Church.

4. Giving, and not granting, That the Persons aforesaid directed Commissioners, in the Name of the Clergy, to this Meeting, were capable of that Authority, and that the said Presbyters had the Authority to direct Commissioners to the *General Assembly*; yet have they now lost and fallen from all such Right, if any they had, in so far as they have deposed the Moderators, who were lawfully appointed to govern them, by the Bishops in their Synods, and elected others in their place, contrary to the Act of the *Assembly* at *Glasgow*, 1610, an Act of Parliament 1612, ordaining Bishops to be Moderators at these Meetings; and in their absence, the Minister whom the Bishop should appoint at the Synod. So these Meetings having disclaimed the Authority of Bishops, deposed their lawful Moderators, and chusing others without Authority, cannot be esteemed Lawful Convocations, that can have lawful Power of sending out Commissioners with Authority to judge of the Affairs of this Church.

And yet doth the nullity of the Commissions, flowing from such Meetings, further appear in this, that they have associate to themselves a Laick Ruling-Elder (as they call him) out of every Session and Parish; who being ordinarily the Laird of the Parish, or a Man of the greatest Authority in the Bounds, doth over-rule in the Election of the said Commissioners, both by his Authority and their Number, being more than the Ministers; whereof some being ordinarily absent, and five, or six, or so many of them put in List, and removed, there remain but a few Ministers to Voice to the Election; and in effect the Commissioners for the Clergy are chosen by Lay-Men, contrary to all Order, Decency, and Custom observed in the Christian World, in no wise according to the custom of this Church which they pretend to follow, the Presbyteries formerly never associating to themselves Lay-Elders in the Election of the Commissioners to the *General Assemblies*, but only for their assistance in Discipline,

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‘and correction of Manners, calling for them at such times and occasions as they stood in need of their godly concurrence, declaring otherwise their Meeting not necessary; and providing expressly that they should not be equal, but fewer in number than the Pastors, as by Act of *Assembly* at *St. Andrews*, *April 24. 1582.* (where Mr. *Andrew Melvill* was Moderator) doth appear; like-as these forty years by gone and upwards, long before the re-establishment of Bishops, these Lay-Elders have not bin called at all to Presbyteries: And by the Act of *Dundee*, 1597, (whereby it is pretended that Presbyteries have Authority to send these Lay Commissioners) it doth no way appear that those Lay-Elders had any hand in chusing of the Ministers; and this is the only Act of *Assembly* authorising Presbyteries to chuse Commissioners to the *General Assembly*: Nor have Lay-Elders sat ordinarily in Presbyteries, upon any occasion, this forty Years and upwards, nor ever had any Place or Voice in the Election of Ministers for the *General Assembly*; and consequently those chosen by them to this *Assembly*, have no lawful Power nor Authority: Besides the Persons Ecclesiastical, pretended to be authorised Commissioners to this *Assembly*, have so behaved themselves, that justly they may be thought unworthy and incapable of Commission to a free and lawful Assembly.

‘First, That by their railing and seditious Sermons and Pamphlets, they have wounded the King’s Honour and Sovereign Authority, and animated his Lieges to Rebellion, averring that all Authority Sovereign is originally in the collective Body, derived from thence to the Prince; and that not only in case of negligence it is suppletive in the collective Body, as being communicate from the Commontalty to the King, *cumulative* nor *privative*, but in case of Male Administration, to return to the collective Body; so that *Rex excidit Jure suo*, and that they may refuse Obedience.

‘Next, They are known to be such as have either bin schismatically refractory, opposite to good order settled in the Church and State; or such as having promised, subscribed, and sworn Obedience to their Ordinary, have never made Conscience of their Oath; or such as have sworn, and accordingly practised, yet contrary to their Promise and Practice, have resisted, to the contempt of Authority, and disturbance of the Church; or such as are under the Censures of this Church, or convened, or at least deserving to be convened, before the Ordinaries, or a lawful *General Assembly*, for divers transgressions deserving deprivation.

‘As first, for uttering in their Sermons, rash and irreverent Speeches in the Pulpit against his Majesty’s Council & their Proceedings, punishable by deprivation, by the Act of the *Assembly* at *Edinburgh*, *May 22. 1590.*

‘Next for reproving his Majesty’s Laws, Statutes, and Ordinances, contrary to the Act of the *Assembly* at *Perth*, *May 1. 1596.*

‘Thirdly, For expressing Mens Names in Pulpits, or describing them lively to their reproach, where there was no notorious fault, against another Act of the same *Assembly*.

‘Fourthly, For using Applications in their Sermons, not tending to the Edification of their present Auditory, contrary to another Act of the same *Assembly*.

‘Fifthly, For keeping Conventions not allowed by his Majesty, without his knowledge and consent, contrary to another Act of the same *Assembly*.

‘Sixthly,

‘Sixthly, For receiving of People of other Minister’s Flocks to
‘the Communion, contrary to Order, Acts of *Assemblies* and *Councils*.

‘Seventhly, For introducing themselves into other Mens Pulpits,
‘without Calling and Authority.

‘Eighthly, For usurping the Authority to convent their Brethren,
‘and proceed against them to the Censures of Suspension and Depri-
‘vation.

‘Ninthly, For pressing the People to subscribe a Covenant, not al-
‘lowed by Authority; and opposing and withstanding the subscribing
‘of a Covenant offered by his Majesty, and allowed by the Council;
‘besides many personal Faults and Enormities, whereof many of
‘them are guilty, which in charity we forbear to express; but hereby
‘it doth appear, how unfit these Persons are to be Members of a free
‘and lawful *Assembly*.

7. ‘Nor doth it stand with Reason, Scripture, or Practice of the
‘Christian Church, that Lay-Men should be authoris’d to have deci-
‘sive Voice in a *General Assembly*; in that Act of *Dundee*, 1597,
‘whereby these Elders pretend to have this place, there is no War-
‘rant expressed for them to deliberate and determine: Their presence
‘and assistance we approve, being allowed and authoris’d by the
‘Prince; the King’s Majesty present in Person, or by his Delegates,
‘we hold most necessary to see all things orderly and peaceably done,
‘and that he have the chief hand in all Determinations and Delibera-
‘tions. Nor do we refuse that any moderate or intelligent Man may
‘make remonstrance of his Opinion, with the Reasons of it, in that
‘way that becometh him in a National *Assembly*, due reverence being
‘kept, and confusion avoided; but that any Lay-Men, except Dele-
‘gates by Sovereign Authority, shall presume to have a definitive and
‘decisive Voice, we esteem it to be intrusion upon the Pastoral
‘Charge, and without Warrant; may we not therefore entreat my
‘Lord Commissioner his Grace, in the words of the Fathers of the
‘fourth General Council at *Chalcedon*, *Mitte foras superfluos?* Nor
‘will a pious Prince be offended with it, but with *Theodosius* the
‘Younger will say, *Illegitimum est eum qui non sit, in ordine Sanctissi-
‘morum Episcoporum Ecclesiasticis immisceri tractatibus.*—And *Pul-
‘cheria* the Empress commanded *Strategus*, *Ut Clerici, Monachi &
‘Laici vi repellerentur, exceptis paucis illis quos Episcopi secum duxe-
‘runt.* Upon this respect was *Martinus* in that Council of *Chalcedon*
‘moved to say, *Non esse suum, sed Episcoporum tantum sub scribere.*

8. ‘If these pretended Commissioners, both Lay and Ecclesiastical,
‘were lawfully authoris’d, (as it is evident they are not) and for
‘none other Cause declinable, yet the Law doth admit, that a Judge
‘may justly be declined who is probably suspected; and of all Proba-
‘bilities this is the most pregnant, when the Judge, before he come to
‘Judgment, doth give Sentence of these things he hath to Judge.
‘This made our Reformers Protestation against the Council of *Trent*
‘valid, and their not compearing justifiable; because Pope *Leo* the
‘10th had pre-condemned *Luther*, as appeared by his Bull dated
‘*Junii* 8. 1520. renewed by *Paul* the third, dated in *August* 1535.
‘This was the cause why *Athanasius* would not give his appearance at
‘some Councils, nor *Hosius* of *Corduba*, nor *Maximus* Patriarch of
‘*Constantinople*; But so it is, the most part, if not all of the said Com-
‘missioners directed to this Meeting, have pre-condemned Episcopal

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Government, and condemned, at least suspended, obedience to the Acts of the *General Assembly* and *Parliament*, concerning the five Articles of *Perth*, have approved their Covenant as most necessary to be embraced of all in this Kingdom; and have not only given Judgment of these things before-hand, but by most solemn Oaths have bound themselves to defend, and stand to the same, as doth appear by their Covenant, Petitions, Protestations, Pamphlets, Libels, and Sermons, and therefore by no Law nor Equity can these pretended Commissioners be admitted to determine in this Meeting concerning these Persons and Points, which before-hand they have so unjustly condemned.

Furthermore, with no Law nor Reason can it subsist, that the same Persons shall be both Judges and Parties. And we appeal to the Consciences of all honest Men, if all, at least the greatest part of the pretended Commissioners, have not declared themselves Party to the Arch-Bishops and Bishops of this Church; for in that they have declined the Bishops to be their Judges, as being their Party, (as their Declinators, Petitions, Declarations, and Protestations do bear) have they not, *simul & semel, & ipso facto*, declared themselves to be Party against the Bishops; whom they have not only declined, but persecuted by their Calumnies and Reproaches, vented by Word and Wit, in publick and in private, by invading their Persons, opposing and oppressing them by strength of an unlawful Combination; for the subscribing and swearing whereof, they have by their own Authority, indicted and kept Fasts, not only in their own Churches, but where worthy Men refused to be accessory to these disorderly and impious Courses: They have (by aid of the unruly Multitude) entred their Churches, usurped upon their Charges, reading, and causing to be read that unlawful Covenant, by threatening, and menacing, compelling some (otherwise unwilling) out of just fear, to set their hands to it, by processing, suspending, and removing obedient and worthy Ministers from their Places, by the usurped Authority of their Table and Presbyteries.

*An Index of the Principal Acts of the Assembly
at Glasgow, 1638.*

Sundry Protestations betwixt the Commissioner his Grace, and the Members of the Assembly.

Mr. *Archibald Johnston*'s admission to be Clerk, and his Production of the Registers of the Church, which were preserved by God's wonderful Providence.

An Act disallowing any private Conference, and constant *Assessors* to the Moderator.

An Act ratifying the *Authentickness of the Registers*, with the Reasons thereof.

An Act registrating his *Majesty's Will*, given in by his Commissioner.

An Act bearing the *Assemblies Protestation* against the Dissolution thereof.

An Act deposing Mr. *David Mitchell*, Minister at *Edinburgh*.

An Act deposing Mr. *Alexander Gloadstoun* Minister at *St. Andrews*.

An

An Act annulling the six late Assemblies holden at Linlithgow, 1606, and 1608. at Glasgow 1610. at Aberdeen 1616. at St. Andrews 1617. of Perth 1618; with the Reasons of the Nullity of every one of them.

An Act declaring the Nullity of the Oath, exacted by Prelats from Intrants, *id est*, such as are instituted to Benefices.

An Act deposing Mr. John Creichton Minister at Paislay.

An Act condemning the Service-Book.

An Act condemning the Book of Canons.

An Act condemning the Books of Ordination.

An Act condemning the High-Commission.

The Sentence of Deposition and Excommunication of the sometime pretended Bishops of St. Andrews, Glasgow, Ross, Galloway, Bricben, Edinburgh, Dumblane, Aberdeen.

The Sentence of deposition against the sometime pretended Bishops of Murray, Isles, Argile, Orkney, Cathness, and Dunkell.

The large Act clearing the Meaning of the Confession of Faith, made Anno 1580. as abjuring and removing Episcopacy.

An Act declaring the Five Articles to have bin abjured, and to be removed.

Sentence of deposition against Mr. Thomas Forrester.

Sentence of deposition against Mr. William Ahannan.

Sentence of deposition against Mr. Robert Hamiltoun Minister at Glasford.

Sentence of deposition against Mr. Thomas Mackeney.

Act anent the Presbyteries of Auchterardours present Seat at Aberuskene for the time.

Act restoring Presbyteries, Provincial and General Assemblies to their Constitution of Ministers and Elders, and their Power and Jurisdiction contained in the Book of Policy.

Act erecting Presbyteries in Argile.

Act referring to the Presbyteries the consideration of their Meetings.

Act concerning the Visitation of particular Kirks, Schools, and Colleges.

Act against Non-Residents.

Act concerning planting Schools in the Country.

Act concerning the Power of Presbyters, admission of Ministers, and chusing of their Moderators.

Reference to the Presbyteries anent the competency of Parishioners and Presbyteries.

Act concerning the entry and conversation of Ministers, ratification of the Act 1598.

Act of Reference to Presbyteries, concerning the defraying of the Expences of the Commissioners.

Act of Reference concerning the repressing of Popery and Superstition.

Act of Reference to the Presbyteries, concerning the more frequent celebration of the Lord's Supper.

Act of Reference concerning Markets on Munday within Burroughs.

Act against the Prophanation of the Sabbath, for want of Afternoons Exercise.

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Act against the frequenting the company of *Excommunicated Persons*.

Act setting down the Roll of Provincial Assemblies, and some Orders thereanent.

Act of Reference against *Milnes* and *Salt-pans*.

Act anent the Order of Receiving the Repentance of any *Penitent Prelates*.

Act anent the Excommunication of the Ministers deposed who do not obey their Sentence.

Act against those who speak or write against the *Covenant*, this Assembly, and Constitutions thereof.

Act of Reference anent the Voicing in the *Kirk Sessions*.

Act condemning Chapters, Arch-Deans, Preaching Deacons, and such like Popish Trash.

Act against the obtruding of *Pastors* upon People.

Act against *Marriage* without Proclamation of Banes.

Act against *Funeral Sermons*.

Act anent the Trial of Expectants; [that is such as are not possessed of any Benefice.]

Act anent the admission of Mr. *Archibald Johnston* to be Advocate, and Mr. *Rob. Dalgleish* to be Agent for the Kirk.

Act anent the Transplantation of Mr. *Alexander Henderson* from *Leuchars* to *Edinburgh*.

Act of Reference to the Presbyteries and Provincial Assemblies, to take order with *Salmon-Fishing*.

Act of transporting Mr. *Andrew Cart* from *Pitshgo* to *Newbotle*.

Act condemning all *Civil Offices* in the Persons of Ministers separate to the Gospel, as to be Justice of Peace, sit in Session or Council to Vote or Ride in Parliament.

Act concerning a *Commission* for Complaints about *Edinburgh*.

Another *Commission* to sit at *Jedburgh*.

Another *Commission* to sit at *Erwin*.

Another *Commission* to sit at *Dundee*.

Another *Commission* to sit at the *Channeries* and *Forests*.

Another *Commission* to sit at *Kircubright*.

A *Commission* for visitation of the College of *Aberdeen*.

A *Commission* for visitation of the College of *Glasgow*.

Act against *Salmon-fishing*, and going of *Milnes* on the Sabbath-day.

Act appointing the Commissioners to attend the Parliament, and Articles which they are to represent in the Name of the Kirk to the Estates.

Act ordaining the Commissioners from Presbyteries and Burroughs, presently to get under the Clerk's hand, an Index of the Acts, and hereafter a full Extract of them, which they are bound to take back from the Assembly to the Presbyteries and Burroughs.

Act ordaining the Presbyters to intimate in their several Pulpits, the *Assemblies* Explanation of the *Confession of Faith*, the Act against Episcopacy, the Act against the Five Articles, the Act against the Service-Book, Book of Canons, Book of Ordination, the High-Commission, the Acts of Excommunication and Deposition against some Prelates; an Act of Deposition only against some others of them.

An *Act* discharging *Printers* to print any thing, either anent the Acts of the Proceeds of this *Assembly*, or any Treatise which concerns the Kirk, without a Warrant under Mr. *Archibald Johnston's* hand, as Clerk of the *Assembly*, and Protector of the *Kirk*, and that under the pain of all Ecclesiastical Censure to be intimated with other Acts.

Act ordaining the *Covenant* subscribed in *February*, now to be subscribed with the *Assemblies Declaration*.

Act discharging all Subscription to the *Covenant*, subscribed by his Majesty's Commissioner, and the Lords of Council.

Act ordaining all Presbyteries to keep a solemn *Thanksgiving* in all Parishes, for God's Blessing and good Success on this *Assembly*, upon the first convenient *Sabbath*.

Act against those who are *malicious* against this Church; Decliners or Disobeyers of the Acts of this *Assembly*.

Act warranting the Moderator and Clerk to give out Summons upon Relievable Complaints, against Parties to compare before the next *Assembly*.

Act renewing the Privileges of yearly *General Assemblies*, and oftner (*pro re nata*) and appointing the third *Wednesday* in *July* next in *Edinburgh* for the next *General Assembly*.

Act that none be chosen Ruling-Elders to sit in Presbyteries Provincial, or *General Assemblies*, but those who subscribe the *Covenant*, as it is now declared; and acknowledges the Constitution of this *Assembly*.

Act to transport Mr. *Robert Blair*, from *Air* to *St. Andrews*.

Act for representing to the *Parliament*, the necessity of the standing of the Prolocutor's Place for the *Kirk*.

There are many less Principal Acts omitted, so the *Index* is not fully perfect.

A. Johnston.

CHARLES by the Grace of God, King of *Scotland*, *England*, *France*, and *Ireland*, Defender of the Faith. To all Our Lovits, Heraulds, Pursevents, Our Sheriffs in that part conjunctly and severally specially constitute, Greeting.

Whereas for the removing of the Disorders which had happened of late within this our Kingdom, and for settling of a perfect Peace in the Church and Common-Wealth thereof; We were pleased to cause indite a General Assembly to be holden at Glasgow, the one and twentieth of November last: And for our Subjects their better content and assurance that they should be freed of all such things, as by their Petitions and Supplications given in to the Lords of our Privy-Council, they seemed to be grieved at, We in some sort prebened the Assembly, by discharging, by our Proclamation, the Service-Book, Book of Canons, and High-Commission; freed and liberate our Subjects from the praesiding of the Five Articles; eximied all Ministers at their entry, from giving any other Oath than that which is contained in the Act of Parliament, made all

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all Persons, both Ecclesiastical and Civil, liable to the Censure of Parliament, General Assembly, or any other Judicatory competent, according to the nature of their Offence, had declared all by-gone Disorders absolutely forgotten and forgiven at last, for securing to all Posterity the Truth and Liberty of Religion, did command the Confession of Faith, and Band for maintenance thereof, and of Authority in defence of the same, subscribed by our dear Father and his Household, in Anno 1580, to be renewed and subscribed again by our Subjects here. And albeit that this our gracious and pious Command, instead of Obedience and Submission, rancountred open and publick Opposition and Protestation against the same: And that they continued their daily and hourly guarding and watching our Castle at Edinburgh, suffering nothing to be imported therein but at their discretion, stopping and impeding any importation of Ammunition, or other Necessaries whatsoever to any of our Houses within this Kingdom; denying to Us, their Sovereign Lord, that Liberty and Freedom which the meanest of them assume to themselves (an Act without President or Example in the Christian World) like as they spared not boldly and openly to continue their Conventions and Council-Tables, of Nobility, Gentry, Ministers and Burgeses within the City of Edinburgh; where not regarding the Laws of the Kingdom, without Warrant of Authority, they convened, assembled, and treated upon Matters, as well Ecclesiastical as Civil; sent their Injunctions and Directions throughout the Country to their Subordinate Tables, and other Under-Ministers appointed by them for that effect. And under colour and pretext of Religion, exercising an unwarranted Liberty, required Obedience to their unlawful and illegal Directions, to the seen prejudice of Authority, and lawful Monarchical Government. And notwithstanding it was evidently manifest, by the illegal and unformal course taken in the Election of the Commissioners for the Assembly, whereof some of them were under the Censure of this Church, some under the Censure of the Church of Ireland; some long since banished for open and avowed teaching against Monarchy, others of them suspended; and some admitted to the Ministry contrary to the form prescribed by the Laws of this Kingdom, others of them Rebels, and at the Horn; some of them confined, and all of them by Oath and Subscription bound to the overthrow of Episcopal Government. And by this and other their under-hand working, and private Informations and Perswasions, have given just ground of suspicion of their partiality, and so made themselves unfit Judges of what concerneth Episcopacy. And also albeit it was sufficiently cleared by the peremptory and illegal procedures of the Presbyteries, who at their own hand, by order of Law, and without due form of Process, thrust out Moderators lawfully established, and placed others, whom they found most inclinable to their turbulent Humours, associate to themselves, for chusing of the Commissioners to the Assembly, a Laick-Elder out of each Parish; who being in most places equal, if not more in number than the Ministry, made choice both of the Ministers, who should be Commissioners from the Presbyteries, as also of a Laick-Elder, (which in time will prove to be of a dangerous consequence, and import a heavy burden to the Liberty of the Church and Church-men) being more therein directed by the Warrants of the foresaid pretended Tables,

Tables, than by their own Judgments; as appeared by the several Instructions sent from them, (far contrary to the Laws of this Country, and lawable custom of this Church) some whereof were produced and exhibited by our Commissioner, and publickly read: one whereof, direct to the Noblemen and Barons of each Presbytery, doth, among many other odd Passages, require diligence, lest (say they) by our own silliness and treachery, we lose so fair an occasion of our Liberty, both Christian and Civil; a strange phrase to proceed from dutiful or loyal-hearted Subjects. The other to the Moderator of the several Presbyteries, under the Title of Private Instructions, August 27.

First containeth, That these private Instructions shall be discovered to none, but to Brethren well-affected to the Cause.

Secondly, Order must be taken, That none be chosen Ruling-Elders but Covenanters, and those well-affected to the Business.

Thirdly, That where the Minister is not well-affected, the Ruling-Elder be chosen by the Commissioners of the Shire, and spoken to particularly for that effect.

Fourthly, That they be careful that no Chappel-men, Chapter-men, or Minister Justice of Peace, be chosen, although Covenanters, except they have publickly renounced or declared the unlawfulness of their places.

Fifthly, That the Ruling-Elders come from every Church in equal number with the Ministers; and if the Minister oppose, to put themselves in possession, notwithstanding of any opposition.

Sixthly, That the Commissioner of the Shire cause convene before him the Ruling-Elders of every Kirk chosen before the day of the Election, and enjoin them upon their Oath, That they give vote to none but to those who are named already at the Meeting at Edinburgh.

Seventhly, That where there is a Nobleman in the bounds of the Presbytery, he be chosen; and where there is none, there be chosen a Baron, or one of the best Quality, and he only a Covenanter.

Eighthly, That the ablest Man in every Presbytery be provided to dispute de potestate supremi Magistratus in Ecclesiasticis, præsertim in convocandis Conciliis, &c.

Whereby it is most evident what Prelimitations, indirect and partial Courses, and dangerous Propositions have bin used in the Preparations and Elections to this pretended Assembly. By which unlawful doings, although We had sufficient Reason to have discharged the meeting of the said Assembly, yet We were pleased patiently to attend the same, still hoping, that when they were met together, by the presence of our Commissioner, and assistance of some well-affected Subjects who were to be there, and by their own seeing the real performance of what was promised by our Proclamation, they should have bin induced to return to the due Obedience of Subjects: But when we perceived that their turbulent Dispositions did encrease, as was manifest by their repairing to the said pretended Assembly, with great Troops and Bands of Men, all hoddin in fear of War, with Guns and Pistolets, contrary to the Laws of this Kingdom, and in high contempt of our Proclamation at Edinburgh the 16th day of November last. And also by the peremptory refusing to the Assessors authorized by Us (although fewer in number than Our dearest

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Father was in use to have) the power of voting in this Assembly, as formerly they had done in all others; openly averring, That We, nor our Commissioner, had no further Power there than the meanest Commissioner of their number. And by their partial and unjust refusing, and not suffering to be read the Reasons and Arguments given in by the Bishops, and their adherents to our Commissioner, why they ought not to proceed to the Election of a Moderator, neither yet to the trying and admitting of the Commissioners before they were heard, though in our Name they were earnestly required thereto by our Commissioner: And notwithstanding that our Commissioner, by Warrant from Us, gave in under his hand a sufficient Declaration of all that was contained in our late Proclamation, bearing likewise Our pleasure of the Registration of the same in the Books of Assembly, for all assurance of the Truth and Purity of Religion to all our good Subjects, as doth clearly appear by the Declaration it self, whereof the tenour follows.

The King's Majesty being informed, That many of his good Subjects have apprehended, that by the introducing of the Service-Book and Book of Canons, the inbringing of Superstition hath bin intended, hath bin graciously pleased to discharge, like-as by these he doth discharge the Service-Book, and Book of Canons, and the practice of them, and either of them; and annuls and rescinds all Acts of Council, Proclamations, and other Acts and Deeds whatsoever, that have bin made or published for establishing them, or either of them; and declares the same to be null, and to have no force nor effect in time coming. The King's Majesty, as he conceived, for the ease and benefit of the Subject, established the High Commission, that thereby Justice might be administered, and the Faults and Errors of such Persons as are made liable thereto, taken order with, and punished with the more conveniency, and less trouble to the People. But finding his gracious Intention therein to be mistaken, hath bin pleased to discharge, like-as by these he doth discharge the same, and all Acts and Deeds whatsoever made for establishing thereof. And the King's Majesty being informed, that the urging of the five Articles of Perth-Assembly hath bred distraction in the Church and State, hath bin graciously pleased to take the same into his Roial Consideration, and for the Quiet and Peace of this Country, hath not only dispensed with the practice of the said Articles, but also discharged all and whatsoever Persons from urging the practice thereof, upon either Laick or Ecclesiastical Person whatsoever; and hath freed all his Subjects from Censure and Pains, whether Ecclesiastical or Secular, for not urging, practising or obeying them, or any of them, notwithstanding of any thing contained in the Acts of Parliament, or General Assembly in the contrary. And his Majesty is further contented, that the Assembly take the same so far to their consideration, as to represent it to the next Parliament, there to be ratified as the Estates shall find fitting. And because it hath bin pretended, that Oaths have bin administered different from that which is set down in the Acts of Parliament, his Majesty is pleased to declare by me, That no other Oath shall be required of any Minister at his entry, but that which is set down in the Act of Parliament. And that it may appear how careful his Majesty is, that no Corruption nor Innovation shall creep into this Church, neither yet any Scandal, Vice, or Fault of any

any Person whatsoever, censurable or punishable by the Assembly, go along unpunished, his Majesty is content to declare by me, and assure all his good People, That general Assemblies shall be kept so oft, and as oft as the Affairs of this Church shall require. And that none of his good Subjects may have cause of Grievances against the proceedings of the Prelates, his Majesty is content that all and every one of the present Bishops, and their Successors, shall be answerable, and accordingly from time to time censurable, according to their merits by the General Assembly. And to give all his Majesty's good People full assurance that he never intended to admit any alteration or change in the true Religion professed within this Kingdom; and that they may be truly and fully satisfied of the reality of his Intentions and integrity of the same, his Majesty hath bin pleased to require and command all his good Subjects, to subscribe the Confession of Faith, and Band for maintenance thereof, and of his Majesties Person and Authority, formerly signed by his dear Father in Anno 1580; And now also requireth all these of the present Assembly to subscribe the same. And it is his Majesty's Will, That this be insert and registrate in the Books of Assembly, as a Testimony to Posterity, not only of the sincerity of his Intention to the said true Religion, but also of his Resolutions to maintain and defend the same, and his Subjects in the profession thereof.

Which Declaration was by our special command and direction given in, and subscribed by our Commissioner, upon protestation made by him, that his assenting to the registration hereof, should be no approbation of the lawfulness of this Assembly, nor of any of the Acts or Deeds done, or to be done therein. And finding them in like sort no ways to be satisfied therewith, and that nothing else was able to give them contentment, except at their own pleasure they were permitted to overthrow all Episcopal Government in the Church, and thereby to abrogate our publick Laws, standing in vigour by the space of many Years by-gone, and to alter the fundamental Government of this Kingdom, in taking away one of the three Estates, contrary to express Acts of Parliament. And lest the continuance of their Meetings might have produced other the like dangerous Acts so derogatory to Royal authority, We were forced, for preventing thereof, and for the Reasons and Causes above-mentioned, and divers others importing true Monarchical Government, to dissolve and break up the said pretended Assembly, and to discharge them of all farther meeting, treating, and concluding any thing therein. And yet in that calm and peaceable way, as our Commissioner before his removing desired their pretended Moderator for that time to have said Prayer, and so concluded that days Session, that so they might have had time to think upon the just Reasons of his refusing to assist, or be any longer present at the said pretended Assembly, and of the Causes moving Us to the dissolving thereof: and notwithstanding his earnest urging the same, and being willing to return the next morning to hear their answer; in place of all other satisfaction to his so reasonable and moderate desires, it was refused, and met with a Protestation of an high and extraordinary strain, thereby presuming to cite and call our Council in question, for their dutiful assistance and obedience to Us and Our Commissioner. And finding their Disobedience thus to encrease, We were constrained to discharge them of new

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again the next day thereafter, by publick Proclamation, under the pain of Treason. And albeit that their contumacy is such as hath not bin heard of in former Times, yet they shall never move Us to alter the least Point or Article of that We have already declared by Proclamation or Declaration under our Commissioner's hand. All which was publickly read, and by our Commissioner required to be insert and registrate in the Books of Assembly, therein to remain as a Testimony to Posterity, not only of the sincerity of our Intentions to the True Religion, but also of our Resolution to maintain and defend the same, and our Subjects in the profession thereof: And perceiving likewise that in contempt of our Proclamation at Glasgow, the 29th of November, they go still on to convene, meet, and to make illegal and unwarrantable Acts, We have conceived it fitting to forwarn all our good Subjects of the Danger that they may incur by being ensnared by these their unlawful Procedures. And to this purpose do not only liberate and free them from all Obedience to any of the pretended Acts, made, or to be made at the said pretended Assembly or Committees direct therefrom, but do also free them from all pain and censure which the said pretended Assembly shall inflict upon them, or any of them. And therefore do discharge and prohibit all our Subjects, That they, nor none of them, acknowledge nor give Obedience to any pretended Acts nor Constitutions, made, or to be made at the said pretended Meetings, under all highest pains. And We command, charge, and inhibit all Presbyteries, Sessions of Kirks, Ministers within this Realm, that none of them presume, nor take upon hand privately nor publickly in their Sessions and Meetings, nor in their Conference, Sermons, nor no other manner of way to authorize, approve, justify, or allow the said unlawful Meeting, or Assembly at Glasgow, neither yet to make any Act thereupon, nor to do any other thing private or publick, which may seem to countenance the said unlawful Assembly, under the pain to be repute, holden, and esteemed, and pursued as guilty of their unlawful Meeting, and to be punished therefore with all rigour. And likewise We command all and sundry Noblemen, Barons, Gentlemen, Magistrates, and all other our Lieges who shall happen to be present and hear any Ministers, either in publick or private Conferences or Speeches, or in their Sermons, to approve and allow the said unlawful Assembly, rail and utter any Speeches against Our Royal Commandments, or Proceedings of Us, or Our Council, for punishing or suppressing such Enormities, that they make Relation and Report thereof to Our Council, and furnish Probation, to the effect the same may be accordingly punished, as they will answer to Us thereupon; certifying them who shall hear and conceal the said Speeches, that they shall be esteemed as allowers of the same, and shall accordingly be taken order with, and punished therefore without favour. And to this effect We likewise straightly Charge and Command all Judges whatsoever within this Realm, Clerks and Writers, not to grant or pass any Bill, Summons, or Letters, or any other Execution whatsoever, upon any Act or Deed proceeding from the said pretended Assembly, and all keepers of the Signet from signeting thereof, and that under all highest pains. And because We gave Order and Warrant to Our Commissioner to make open Declaration, not only of our Sense, but even of the true

true meaning of the Confession of Faith, in Anno 1580; by which it may clearly appear, that as we never intended thereby to exclude Episcopacy, so by no right construction can it be otherwise interpreted, as is more than evident by the Reasons contained in the said Declaration, and many more, which for brevity (the thing in it self being so clear) are omitted; wherefore We do not only prohibit and discharge all our Subjects from subscribing any Band, or giving any Writ, Subscription, or Oath to, or upon any Act or Deed that proceeds from the foresaid pretended Assembly, but also to require them not to subscribe nor swear the said Confession, in no other sense than that which is contained in the said Declaration, and manifestly emitted by our Commissioner, under all highest pains. And that none of our good Subjects, who in their Duty and bound Obedience to Us, shall refuse to acknowledge the said pretended Assembly, or any of the pretended Acts, Constitutions, Warrants, or Directions proceeding therefrom, may have just ground of fear of danger or harm by doing thereof, We do by these promise, and upon the Word of a King oblige our Selves, by all the Royal Authority and Power wherewith God hath endowed Us, to protect and defend them, and every one of them in their Persons, Fortunes, and Goods, against all and whatsoever Person, or Persons, who shall dare or presume to call in question, trouble, or any ways molest them, or any of them therefore. And our Will is, and We charge you strictly and command, That incontinent these our Letters seen, ye pass, and make publication hereof by open Proclamation, at the Market-Cross of Edinburgh, and other places needful, where-through none pretend ignorance of the same.

Given from Our Court at *Whitehall*, the 8th day of *December*, and of Our Reign the 14th Year, 1638.

Per Regem.

After the publishing of this Proclamation, the Assembly at *Glasgow* made a Protestation at the Market-Cross of *Edinburgh*, the 18th of *December* 1638. which by reason of the very great length of it, and the many repetitions of former Passages, we forbear to trouble the Body of the *Story* or the *Appendix* therewith, referring the Reader rather, for his further satisfaction, to the King's Large Declaration, page 375, unto page 401.

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King's Decla-
ration, f. 402,
403, &c.

Not long after this Proclamation and Protestation, the King's Commissioner (seeing all things tending to a present Rupture) began his Journey, according to the Leave granted him by his Majesty for his Return. After which time, and ever since, the *Scots* have throughout the whole Kingdom, by threats, made the Acts of their unlawful Assembly to be received, in many Places have perswaded the reception of them by Force and Arms, have levied Soldiers, and imposed Taxes upon the King's Subjects for payment of them; have required of the Judges, or Lords of the Session, to approve their Acts, though none of them consented thereunto, have threatned and menaced them for refusing of it; have raised divers Fortifications in our Kingdom; have blocked up our Castles and Forts; and now at last forcibly taken our Castle at *Edinburgh*: Have at home got their Preachers most seditiously and rebelliously to teach the People, That there is a necessity of their carrying Arms against his Majesty, under pain of Perjury and Damnation; have scattered abroad, especially here in *England*, divers infamous Libels justifying their own wicked and rebellious Courses, inciting the People of *England* to attempt the like Rebellion, and to deface our Ecclesiastical Government.

One of them, upon the Commissioner's coming home, *Prayed God to deliver them from all crafty Compositions*. Another refused to pray in the Church for Sir *William Nesbett* late Provost of *Edinburg*, when he was lying upon his Death bed, only *because he had not subscribed the Covenant*. Another *prayed God to scatter them all in Israel, and to divide them in Jacob, who had counselled us to require the Confession of Faith to be subscribed by the King's Authority*. Many Ministers would not admit to the Communion those who had not subscribed their Covenant, but in their Exhortation before it, barred them in expresse terms with *Adulterers, Slanderers, and Blasphemers, &c.* Others would not suffer Children to be Baptized in the Churches of those Ministers who were not of the Covenant, though they were their own Parish Churches, but carried them sometimes many miles *to be baptized by Covenanting Ministers*. One preached, *That all the non-subscribers of the Covenant were Atheists*; and so concluded, *That all the Lords of the Council, and all the Lords of the Session were such, for none of them had subscribed it*. Another preached, *That as the Wrath of God never was divered from his People, until the seven Sons of Saul was hanged up before the Lord in Gibeon; so the Wrath of God would never depart from that Kingdom, till the twice seven Prelates* (which makes up the number of the Bishops in that Kingdom) *were hanged up before the Lord there*; which is extream foul and barbarous. Another preached, *That though there were never so many Acts of Parliament against the Covenant, yet it ought to be maintained against them all*. Another delivered these words in his Sermon, *Let us never give over till we have the King in our Power, and then he shall see how good Subjects we are*. Another in his Sermon delivered this, *That the bloodiest and sharpest War was rather to be endured, than the least Error in Doctrine and Discipline*. Another in his Sermon wished, *That he and all the Bishops in that Kingdom were in a bottomless Boat at Sea together; for he could be well content to lose his Life, so they might lose theirs, &c.*

Titles

14 Caroli.

Titles of PROCLAMATIONS, &c.

Pro Anno 1638.

A Proclamation for the apprehension of *Gilbert Carr* and *James Locker*.

Whitehall,
April 3.

A Proclamation that all Woollen Clothes and Stuffs, made or mixed with Wooll, and brought to *London* to be sold or transported, be first brought to *Blackwel-Hall*, there to be searched.

Whitehall,
April 16.

A Proclamation for restraint of the unlawful Sale and Transportation of English Horns.

Whitehall,
April 20.

A Proclamation to restrain the transportation of Passengers and Provisions to *New-England* without License.

Whitehall,
May 1.

A Proclamation for allowance of the use of Hard Silk in some special Manufactures.

Whitehall,
May 18.

A Proclamation touching the Corporation of Bever-makers of *London*, and to restrain the importing of Foreign Hats, and the wearing of Demy-casters within his Majesty's Dominions.

Whitehall,
May 26.

A Proclamation for the free and lawful use of Malting.

Greenwich,
June 18.

A Proclamation concerning Playing-Cards and Dice.

Greenwich,
June 18.

A Proclamation appointing the Times for his Majesty's healing of the Disease called the *King's-Evil*.

Greenwich,
July 1.

A Proclamation for the well-ordering the Trade and Vent of Wines throughout the Kingdom.

Greenwich,
July 15.

A Proclamation for restraining the Importation of Lattin Wire into this Kingdom, and for support of that Manufacture here.

Oatlands,
August 19.

A Proclamation for suspending the time of healing the Disease called the *King's-Evil*, until *Easter* next.

Oatlands,
September 2.

A Proclamation for reforming fundry Abuses in Manufactures of Silks and Stuffs of Foreign Materials made here, or imported from Foreign Parts.

Bagshot,
September 5.

A Proclamation for the due assizing of Bread.

Westminster,
November 19.

A Proclamation providing for the relief of maimed, Shipwrackt, and other distressed Seamen, their Widows and Children.

Whitehall,
November 25.

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Whitehall,
January 11.

A Proclamation for the pricing of Wines.

Whitehall,
February 9.

A Proclamation for the well-ordering and making of White Starch within the Realm, and for restraint of the Importation thereof from Foreign Parts.

Westminster,
February 19.

A Proclamation concerning Tin, and to restrain the importation thereof from Foreign Parts.

Whitehall,
February 27.A Proclamation and Declaration, to inform Our loving Subjects of Our Kingdom of *England*, of the seditious practices of some in *Scotland*, seeking to overthrow Our Regal Power under false pretences of Religion.Whitehall,
March 22.

A Proclamation for restraint of Disorders in Souldiers pressed, and to be pressed for his Majesty's Service.

The End of the Second Volume.

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